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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13290-2024 (O&M)
Date of decision: 20.03.2024

Onkar Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amandeep Saini, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.111 dated 01.08.2023 under Sections 323, 324, 307, 341, 506, 148, 149, 201 of the Indian Penal Code, 1860, registered at Police Station Nurpur Bedi, District Rupnagar.
2. The present FIR was registered on the basis of statement recorded by complainant Iqbal Singh on 01.08.2023 with the allegations that on 30.07.2023, Meet son of Chuhar Singh called him telephonically that told that his electric motor had burnt, therefore, requested him to switch on the motor and said to Meet that he would come up within one hour. At about 8.00 p.m., when he went to his motor, he saw that Onkar Singh (petitioner),

Meet and elder son of Meet were consuming liquor. After switching on the motor and taking bath, when he came back, he found that Meet had gone from there. Onkar Singh (petitioner) and elder son of Meet started giving abuses to him and thereafter, they also went from there. After some time, he also went from there unaware of the malafide intentions of the accused persons. At about 09.10 p.m., when he reached at Saini Floor Mill on the main road, Onkar (petitioner), elder son of Meet, Sucha Singh @ Gagu Fauji son of Jagtar Singh, Mani, Tejinder Singh and 8-10 other boys, who had muffled their faces, surrounded him. Onkar Singh (petitioner) was armed with kirpan and after throwing the complainant from the Activa, he raised lalkara not to let the complainant unhurt. They dragged him towards the side of motor. Onkar Singh (petitioner) gave a kirpan blow on his right. When the complainant tried to save himself, elder son of Meet gave him a kirpan blow on his left leg. Thereafter, Mani and Tejinder Singh gave rod blows on his stomach and back. After instigation, Onkar Singh (petitioner), with an intention to kill the complainant, gave a kirpan blow on his head, which hit on right side of his forehead. Sucha Singh @ Gaggi gave a kirpan blow on his right thigh. Onkar Singh (petitioner) gave another kirpan blow on his head. The complainant raised noise of '*marta-marta*', upon hearing this, Onkar Singh son of Kuldeep Singh came to his rescue. Thereafter, all the assailants fled away from the spot along with their respective weapons. Onkar Singh son of Kuldeep Singh made a call to nephew of the complainant and his other relatives and they took the complainant to CHC, Singhpur, for medical treatment.

3. Learned counsel for the petitioner, *inter alia*, contends that the complainant-injured suffered as many as 05 injuries and injuries No.2 & 3 have been attributed to the petitioner and as per opinion of the Board of Doctors, all the injuries suffered by the complainant-injured are simple in nature, as such, invocation of Section 307 IPC is totally against the medical evidence. It is a case of version and cross-version and the cross-version was registered against the complainant party vide Rapat No.27 dated 17.08.2023 under Sections 323, 341, 506, 148, 149 of IPC. It is further contended that the petitioner is behind bars since 21.11.2023; challan stands presented on 18.12.2023 and out of total 15 prosecution witnesses, none has been examined till date.

4. Per contra, the learned State counsel, on instructions from ASI Daljit Singh, opposes the prayer for grant of regular bail to the petitioner on the ground that specific injuries have been attributed to the petitioner with sharp-edged weapon on vital part of the body, as such, intention to breach the threshold of offence under Section 307 IPC is clearly discernible and the petitioner is a habitual offender and involved in two more cases.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 21.11.2023; final report under Section 173 Cr.P.C. stands presented on 18.12.2023 and out of total 15 prosecution witnesses, none has been examined so far. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would

be determined at the time of the trial.

6. In view of the ratio of law laid down by Hon'ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr. 2020(1) RCR (Criminal) 831* and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others 2012(2) SCC 382*, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. In view of the above, present petition is allowed and petitioner-Onkar Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by the observations of this Court.

[HARPREET SINGH BRAR]
JUDGE

20.03.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No