

CRM-M-14905-2023 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

209 CRM-M-14905-2023
Date of decision:08.01.2024

ASHISH KUMAR @ BILLA ... PETITIONER
VERSUS
STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rahul Sharma-I, Advocate for the petitioner.
Ms. Anju Kaushik Sharma, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

1. This is the 3rd petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in:-

FIR No.	Dated	Police Station	Sections
89	31.03.2018	City Rajpura, District Patiala	302, 307, 325, 324, 323, 148, 149 and 427 of IPC, 1860

2. As per the prosecution case, FIR was registered on the statement of Gurtej Singh, who was working as a Compounder with Gupta Hospital, Rajpura, on the allegation that Tota abused him when he alongwith Sandeep Singh went to meet him at Khalsa Service Station, Sirhind Bypass, Patiala Road, Rajpura. In the evening, Tota told Sukhwinder Singh to come to the Service Station in

order to settle the matter and he alongwith Sohan Singh @ Sohna, Sukhwinder Singh alias Sukha, Lovepreet Singh, Sandeep Singh, Kamaljit Singh went to the Service Station on motorcycles, where Jaskaran Singh Bedi, Gurkirat alias Lambar, Gurvinder Singh Sidhu Pilkhani, Ashish Kumar @ Billa (present petitioner), Gurvinder Singh and 35-40 unknown persons were present, who were armed with kirpans, kirch, spade and sticks and they assaulted them. Ashish @ Billa hit the complainant with a kirpan on the left cheek with an intention to kill and Pannu and Tota stabbed in the stomach of Sandeep and Sohan Singh (deceased) with a kirch. Sohan Singh expired as a result of the injuries. When they raised an alarm, public started gathering and the accused fled away.

3. Counsel for the petitioner urges that although it has been alleged that the petitioner had inflicted an injury on the cheek, but as per the opinion of the examining doctor, it was on the neck instead, and it has been declared to be simple. He contends that the offence under Section 307, IPC, is not made out against the petitioner. It is his categoric assertion that three other co-accused including Gurpreet Singh, who is one of the main accused, have been released on bail by this Court vide orders, Annexures P-3 to P-5. Counsel submits that after the dismissal of the previous petitions, petitioner has undergone a custody of more than 28 months and the trial is not progressing as the prosecution witnesses have not appeared in response to the summons issued by the Court. He

submits that the petitioner, who is in custody since 17.04.2018, deserves to be enlarged on bail as he is not involved in any other criminal case for any offence under the IPC, though he has been falsely implicated in some cases lodged against him under the Prisons Act.

4. Per Contra, learned State counsel on the basis of the status report and upon instructions from ASI Rajinder Paul, has opposed the petition. She has urged that the petitioner has been named in the FIR and a specific role has been ascribed to him. As per her assertion, petitioner was not only a member of unlawful assembly, but was also one of the assailants. She could not deny that the injury attributed to the petitioner has been declared to be simple. She submits that the delay in the trial is on account of the fact that two co-accused have been declared as Proclaimed Offenders and proceedings have been initiated for declaring the third accused as an absconder. She has expressed an apprehension that in case petitioner is released on bail, he may also abscond. She submits that on an application moved by the prosecution, Gurwinder Singh has been summoned as an additional accused under Section 319, Cr.P.C..
5. I have heard counsel for the parties and considered their respective submissions.
6. Petitioner has been in custody for the last more than 68 months. Trial is likely to take time to conclude as only 02 out of 31 prosecution witnesses have been examined. The complainant and

the injured, who were the most vital witnesses, have already deposed. Petitioner is not accused of any other offence under the IPC. Noticing the above factors, this Court has no hesitation in acceding to the prayer made in the petition.

7. Without adverting to the merits or de-merits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. To allay the apprehension of the State, it is directed that the petitioner shall appear before the SHO of the police station concerned in the morning on the first Monday of every month. He shall also provide his mobile number to the SHO concerned and will keep it activated through out. The SHO shall make random calls to the accused-petitioner and also keep a tab on his activities. In case, the petitioner violates any of the conditions imposed in this order, State shall be at liberty to seek cancellation of the bail.
9. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

08.01.2024
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No