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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-15482-2024 (O&M)
Date of decision: 02.07.2024

Balwinder Singh alias Bunt
...Petitioner

Versus

State of Haryana
...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Kuldeep Singh Siwach, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 36 dated 22.01.2023, registered under Sections 148, 149, 323, 341, 506 of IPC (Section 307 of IPC added later on) at Police Station Sadar Fatehabad, District Fatehabad.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered against the petitioner and co-accused on the basis of a complaint lodged by the complainant Aman Kumar on 22.01.2023 alleging therein that on 21.01.2023, at about 04:30 PM, he was distributing ration on his ration depot in his village, when the petitioner came there and sat in front of his shop. The complaint told him not to sit there and on hearing the same, the petitioner started hurling filthy abuses to the complainant and while threatening him to face dire consequences, he left the spot. On the same night, by forming membership of an unlawful

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assembly with co-accused and in prosecution of common object of that unlawful assembly, he came in front of the complainant's shop along with co-accused and opened an attack on him, his uncle Har Bhagwan and friend Manpreet Singh, who were present there. He gave a blow with an iron rod upon the head of Manpreet Singh, whereas co-accused also inflicted injuries to the complainant and his uncle with *danda*, which they were carrying in their hands. Thereafter, they fled away from the spot while extending threats to the complainant. The injured were rushed to the hospital for treatment. Initially, a case under Sections 148, 149, 323, 341, 506 of IPC was registered. Subsequently, on the basis of the statement of injured Manpreet Singh and in view of the opinion given by the doctor about the injury on his person being dangerous to life, offence under Section 307 of IPC was added. The petitioner and some co-accused were arrested. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was present in the Court and presently, the petitioner along with co-accused is facing trial for commission of afore-mentioned offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 07.03.2024.

3. The present petition has been filed by the petitioner on the grounds and his counsel has argued that he has been falsely implicated in this case. There is delay of one day in lodging of the FIR. The petitioner is in custody since 26.06.2023. Co-accused Mangal Singh @ Mangat Singh, Kuldeep Singh @ Kuldeepa, Abhay and Jai Singh, whose cases were on similar footing, have since been extended benefit of regular bail by the trial

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Court. Therefore, the petitioner too deserves the same benefit on the ground of parity. The offence under Section 307 of IPC has not been made out against him at all as the same had been added later on the basis of opinion given by the doctor of a private hospital and not of a Govt. hospital. Therefore, the possibility of his false implication under this provision cannot be ruled out. Hence, it is prayed that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that there are serious and specific allegations against the petitioner. The injury, which was declared dangerous to life and had been sustained by Manpreet Singh, had been attributed to the petitioner specifically. The trial is going at a fast pace as out of 25 prosecution witnesses, 09 witnesses have since been examined. There are chances of the petitioner's intimidating the witnesses, if extended benefit of bail. Therefore, he has argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record very carefully.

6. The petitioner along with co-accused is alleged to have formed membership of an unlawful assembly and in prosecution of a common object of that unlawful assembly, he along with co-accused is alleged to have opened attack upon the complainant as well as upon his friend Manpreet Singh and uncle Har Bhagwan. The head injury on the person of Manpreet Singh was attributed to the petitioner and as per report dated 07.02.2023, given by the doctor of Sarvodaya Hospital, the same was dangerous to life. Investigation has since been completed. Trial is likely to take time as 16 witnesses remain

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to be examined. The petitioner is in custody since 26.06.2023. His further detention is not likely to serve any useful purpose. The case of the petitioner cannot be stated to be different from the co-accused, who have been extended benefit of regular bail by the trial Court as the petitioner and themselves have been prosecuted in this case with the aid of Section 149 of IPC. Keeping in view the discussion as made above, I am of the considered opinion that the petition deserves to be allowed.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

02.07.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>