



CRM-M-17020-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-17020-2024

Date of decision : August 21, 2024

Ganesh

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Arpandeeep Narula, Advocate, for the petitioner
Mr. Rajesh Gaur, Addl. AG, Haryana
Mr. Dinesh Arora, Advocate, for the complainant

KULDEEP TIWARI,J. (ORAL)

1. The petitioner, who was arrested on 13.7.2023, in case FIR No. 261 dated 21.5.2023, under Sections 147,149,323,452,506 & 325 (Section 302 IPC, added subsequently), registered at Police Station Rania, District Sirsa, has filed the present petition under Section 439 Cr.P.C., for grant of regular bail.
2. Learned counsel for the petitioner, in asking for the relief of regular bail, submits that as per the case of the prosecution, the petitioner has caused injuries to one Ram Saran, and no injury has been caused to deceased Mansa Ram by the present petitioner. He further submits that, in fact, two incidents occurred, with the complainant, on the same night. In

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first incident, the allegation as levelled against the present petitioner are that he along with other co-accused caused injuries to Ram Saran, and thereafter, in second incident some different set of accused entered into the house of the complainant party, and caused injuries to other persons including the deceased Mansa Ram.

3. Learned counsel for the petitioner, while drawing attention of this Court towards Annexure P/3 i.e. MLR, pertaining to the petitioner, submits that, as per the MLR, his arrival time was recorded as 23.40 hours on dated 16.5.2023, whereas, the arrival time of deceased Mansa Ram, who was injured at that time was 00.50 hours on 17.5.2023, whereas, in the history of assault, the time of assault was mentioned as 23.00 hours, and also pointed out towards Annexure P/8, MLR, of Ram Saran, who also arrived at 23.00 hours on 16.5.2023, and he disclosed the time of occurrence at 9.00 PM on 16.5.2023, whereas, the other injured Pala Ram @ Pola, and the MLR of deceased Mansa Ram, reflect that they reached the hospital at 00.50 hours on 17.5.2023, and whereas, the time of incident was mentioned at 12.00 AM on 17.5.2023, which reflects that on the second occurrence, the petitioner was, in fact, at the hospital and not at the place of occurrence.

4. In the present case, the prosecution agency was set into motion on a complaint made by one Pala Ram @ Pola. The relevant extract of the FIR reads as under:-

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"Stated that I am resident of above mentioned address and am doing labour work. We are three brothers, out of them, I am the eldest, then Mansa Ram and Lala Ram is youngest to all. All three are married and living along with their family at Village Bani in the respective houses near to each other. My brother Lala Ram has two sons. On 16.05.2023, I was at my home. At about 09:00/09:30 pm, I suddenly heard a loud sound in the street and came out of the house and saw that i) Dula Ram son of Sharif, ii) Ganesh son of Sharif, iii) Richhpal son of Dula Ram, iv) Vishal and v) Vikash sons of Ganesh, vi) Hardeep son of Madan, vii) Happy son of Bagga Ram, residents of village Bani, while carrying baton-sticks, Rods in their hands are beating my nephew Ramsharan son of Lala Ram. My nephew Ramsaran while dis-gripping from themselves ran to his house. All the above named assailants ran behind him along with their respective weapons and entered into the house of Ramsharan and right in front of my eyes, all above named persons started beating my nephew Ramsharan. First of all, Dulla Ram son of Sharif gave blow of Iron Toki (used for cutting of wood) upon the head of my nephew Ramsharan and as soon as, he sustained injury, Ramsharan sat on the floor and while he was sitting, Ganesh, Richhpal, Vishal, Vikas, Hardeep, Happy all of them together inflicted injuries to Ramsharan turn by turn with the weapons, which they were carrying in their hands. Due to injuries Ramsharan raised noise to save him, then me and my brother and other members of the family also reached at the spot upon hearing the clamour and on seeing us, Dulla Ram, Ganesh, Richhpal, Vishal, Vikas, Hardeep, Happy fled from the spot along with their weapons. Then we started making arrangement to took Ramsharan to Hospital, then after some time itself Virender son of Mahavir Jhorad, Pawan son of Luna, Chhinda Ram son of Titiya, Vishal and Vikas sons of Ganesh, Hardeep son of Madan, Happy son of Bagga Ram, Rajat son of Shankar Lal, resident of Bani and Alisher son of Dulla Ram, presently residing at Sirsa and the boys came along with

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Alisher, again in collusion with each other, while carrying weapons in their hands again came outside the house of Ramsharan and first of all Virender son of Mahavir raised challenge & said today kill Ramsharan and his family, rest I will see. As soon as, he said this, all the above named persons entered into the house of Ramsharan. After entrance, first of all Alisher gave blow with an Iron rod & in order to evade the same, I raised my hand up, due to which the blow of Rod hit upon my hand and as soon as I sustained injury, I sat down on the floor and all the above named persons inflicted lot of injuries to me, while I was sitting down with batons- sticks which they were carrying in their hands. On seeing all this, my brother Mansa Ram ran to his house out of fear & all the above named assailants entered into the house of my brother Mansa Ram and all the above named assailants also inflicted injuries to my brother Mansa Ram, then all of us raised clamour of save-save, upon which seeing coming of persons of neighbourhood and my son Satpal at the spot, all the above named persons fled away from the spot along with their respective weapons and were saying while leaving that today all of you are saved & that in future we will kill you. Then members of our family made arrangement of vehicle admitted all three of us in the Hospital. Dullaram, Ganesh sons of Sharif, Ricchpal son of Dulla Ram, Vishal and Vikash sons of Ganesh, Hardeep son of Madan, Happy son of Bagga Ram, Virender son of Mahavir, Pawan son of Luna, Chhinda Ram son of Titiya, Vishal and Vikash sons of Ganesh, Hardeep son of Madan, Happy son of Bagga Ram, Rajat son of Shankar Lal, residents of Bani and Alisher son of Dulla Ram, resident Bani presently residing at Sirsa and the boys came along with Alisher (about whom only Alisher can tell). All above named without any reason have inflicted injuries to me and my brother Mansa Ram and my nephew Ramsharan son of Lala Ram without any right.”

5. In the instant FIR, 14 persons have been finally arrayed as an

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accused by the prosecution, and out of these 14 accused, 7 accused have already been arrested, and out of these 7 accused, no one has been granted the relief of regular bail. After concluding the investigation, final report qua the petitioner has been filed way back on dated 27.8.2023, and thereupon, charges were framed on dated 8.7.2024. The prosecution has cited a total of 29 witnesses and none has been examined so far.

6. Learned State counsel has placed on record the custody certificate qua the petitioner, and the same is taken on record. Learned State counsel assisted by the learned counsel for the complainant, submit that in fact, the petitioner has caused injuries to one-Ram Saran. and there is specific allegation against him. They further draw attention towards the injuries suffered by Ram Saran. The relevant extract reads as under:-

*“1. LACERATED WOUND OF SIZE APPROX 5 X 1.5 CM PRESENT ON RIGHT FRONTAL REGION.,
ADV-NCCT HEAD AND SURGEON OPINION.
2. LACERATED WOUND OF SIZE APPROX 2 X 0.5 CM PRESENT ABOVE RIGHT EYEBROW WITH ACTIVE BLEED
ADV-X RAY SKULL WITH PNS AND SURGEON OPINION.
3. LACERATED WOUND OF SIZE APPROX 6 X 1 CM PRESENT ON RIGHT TEMPORAL REGION,ACTIVE BLEED.
ADV-NCCT HEAD AND SURGEON OPINION.
4. LACERATED WOUND OF SIZE APPROX 5 X 1 CM PRESENT ON LEFT TEMPORAL REGION, WITH ACTIVE BLEED.
ADV-NCCT HEAD AND SURGEON OPINION.
5. TWO LACERATED WOUND OF SIZE APPROX 1 X 0.25 CM PRESENT ON RIGHT FRONTAL REGION.*

**CRM-M-17020-2024****6***ADV-NCCT HEAD AND SURGEON OPINION."*

7. They further submit that the incident cannot be segregated into two instances, as projected by the learned counsel for the petitioner, and the petitioner is, in fact, liable for the act, and conduct of the other co-accused with the aid of Section 149 IPC.

8. This Court has considered the rival submissions made by learned counsel for the parties concerned. It is not under dispute that there is no allegation that the petitioner has ever caused any injury to the deceased Mansa Ram, rather it is an admitted case of the prosecution that the petitioner has caused injuries to one Ram Saran. Further, the petitioner, as per the custody certificate, has suffered incarceration of 01 year, 01 month and 07 days as on today and he is not involved in any other case. It is further transpired that out of 14 accused arrayed by the prosecution, only 7 have been arrested so far. Out of the total 29 witnesses cited by the prosecution, none has been examined so far. Therefore, this Court can safely conclude that the conclusion of the trial would take a long time.

9. In view of the facts and circumstances recorded above, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

10. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.



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11. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

August 21, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No