



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

239

CRM-M-23932-2024

Date of decision: August 12th, 2024

Gurpartap Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Balbir Singh Jaswal, Advocate
for the petitioner.

Mr. Shiva Khurmi, Assistant Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.60 dated 20.07.2023 under Sections 379-B/411/473 of the Indian Penal Code, 1860, registered at Police Station Qila Lal Singh, Police District Batala, District Gurdaspur.

2. On a pointed query put to the learned counsel as to what was the change in circumstances, which would warrant entertaining the instant petition after the previous petition was withdrawn on 22.02.2024, it has been submitted that both the material witnesses i.e. the complainant and the eyewitness stand examined, and 22 prosecution witnesses still remain to be examined. It has been submitted that the version put forth in the FIR (Annexure P-) is highly implausible. According to the complainant, in the early hours of 28.06.2023, while the complainant and his friend had stopped near a *Dhaba* to relieve

themselves, two individuals approached them, ostensibly offering assistance. Subsequently, these individuals not only pushed the complainant aside, but four more individuals, armed with hockey sticks, arrived at the spot and brutally assaulted the complainant and his friend. The assailants then allegedly stole ₹23000/- in cash, important documents from their car, and even the car itself. Learned counsel has argued that it is neither credible nor probable that the complainant could have clearly seen or accurately identified the alleged assailants at that hour, given the likely darkness. Therefore, the identification of the petitioner as one of the assailants, who attacked them on the fateful day, ought to be rejected.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite has reiterated the allegations levelled in the FIR, which stands reproduced hereinunder:-

“Statement of Mohammad Safat S/O Mohammad Ayub R/O Ward no 16, Dhani dhar, near Filter point Rajouri, Jammu and Kashmir, age about 27 year old, Mobile no.9697969793. It is stated that I am a resident of the above said address and I do work of Steel Aluminum Door in Rajouri. Today I and my friend Jahngir Amarbatt S/O Ghulam Mahuddin Batt, resident of Kamgalipur Tehsil Rajpura, We were on the way from Sri Amritsar Sahib riding our vehicle making Brezza bearing number JK-11-D-3645 color light black to go to our village Rajouri, Jammu & Kashmir. It was around 4-45 AM that when my vehicle reached near Zimidara Dhaba near Batala Bypass, my friend and I kept the vehicle started so that we got down to urinate and a Hindu gentle man came from the other side of the road. He said what happened any help you need, So I said that we were about to go to urinate, there is no problem. Then that person pushed me and about 4 other people came who had a hockey stick Both of them hit me and my friend's by hockey stick and slapped me. There was about 18/20 thousand cash in my vehicle, some documents, Aadhaar card, ATM. There were 50,000 rupees worth of clothes, shoes and utensils and 44,000 rupees a water tank used in Gurdwara Sahib, a trolley and three phones one is I phone-11 with SIM no. and SIM number in Redmi M-9A was 7780803442. My vehicle JK-11- D-3645 making Breeja has been stolen by some unknown persons, action should be taken.”

4. It has been submitted that both the material witnessed i.e. the complainant and the eyewitness had not only supported the

prosecution case but had clearly identified the petitioner during the trial; there was no occasion for the complainant to falsely identify the petitioner and the co-accused during trial. It has also been submitted, on instructions from ASI Surinderpal Singh, that the involvement of the petitioner and the co-accused in the crime in question is further evident from the fact that the articles including the stolen vehicle and other documents were recovered from the possession of the petitioner and the co-accused. It has also been submitted by the learned State counsel that the petitioner is a man of criminal antecedents and this is not the first time that he has been involved in a criminal case of similar nature.

5. I have heard learned counsel for the parties and perused the relevant material on record.
6. In the facts and circumstances as enumerated hereinabove, *prima facie* the involvement of the petitioner cannot be ruled out in the occurrence in question. Therefore, no ground is made out to grant the concession of bail to the petitioner.
7. The instant petition stands dismissed.
8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

August 12th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No