



CRM-M-23963-2024

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258 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-23963-2024
Date of decision: 2nd August, 2024

Kulwinder Singh @ Kavi
...Petitioner(s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Bhupinder Kumar Gupta, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in the FIR mentioned below:-

FIR No.	Date	Police Station	Sections
20	23.02.2022	Mukerian, Hoshiarpur	307, 34 of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 21.02.2022 on receipt of an information about admission of one Abhishek Sharma in Civil Hospital, Mukerian due to injuries sustained in some altercation, a police party had rushed there but the injured was stated to have been referred to DMC, Ludhiana. A *rapat* entry was made. On 22.02.2022, information regarding admission of the injured Abhishek Sharma at Capitol Hospital, Jalandhar was received. On reaching there, the opinion of doctor as to the condition of the injured was obtained



by the police, who was opined to be unfit to make any statement. On 23.02.2022, since the injured was still found to be unfit and was admitted in ICU in critical condition, the statement of his father i.e. complainant-Vijay Kumar was recorded, who stated that on 21.02.2022 at about 11:30 AM, he received a telephonic information about sustaining injuries by his son Abhishek at the hands of the present petitioner and juvenile in conflict with law 'A' (name withheld), when the latter had gone to attend his college. He had rushed to the spot and came to know that the petitioner and juvenile 'A' had given blows with knife to his son with an intention to kill him. A case under Section 307 read with Section 34 of IPC was registered. Investigation proceedings were initiated. The petitioner was arrested on 28.02.2022. The statement of the injured victim was recorded on 06.04.2022, wherein while alleging that the petitioner had struck blow with knife on his neck, the juvenile 'A' had beaten him up and two more persons namely Sarthi and Nitish had caught hold of him. The above named Sarthi and Nitish were, however, found to be innocent and had not been arrested and challaned. Offence under Section 326 of IPC was also added subsequently. Investigation has since been completed and the petitioner is facing trial before the learned trial Court. He had moved applications for grant of regular bail before the learned trial Court. His second application was dismissed vide order dated 08.04.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. There is delay of two days in lodging of the FIR and therefore, the



possibility of creating a false and fabricated story to implicate him cannot be ruled out. He is in custody since 28.02.2022. Trial is likely to take time. No useful purpose would be served by detaining him in custody anymore. Therefore, it is argued that the petitioner deserves to be released on bail.

4. Status report has been filed by the respondent-State, as per which, the case is at its fag end, since, it is at the stage of recording defence evidence. There are specific and serious allegations against the petitioner as he had caused injuries with knife on the vital part of the body of the victim i.e. on his neck. The injury so sustained was declared to be grievous in nature. As per the opinion given by the doctor, the condition of victim was critical at the time of admission. The victim has been able to record his statement about two months after the lodging of the FIR. The petitioner has criminal antecedents as he is involved in one more case of murder and attempt to murder as well as a case under the provisions of Narcotic Drugs and Psychotropic Substances Act (for short 'NDPS Act'). There are chances of his absconding, if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. So far as the argument that there was delay in reporting the matter to the police is concerned, it has come on record that the information regarding the incident had been given to the police on 21.02.2022 itself and it was due to the critical condition of the victim that his statement could not



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be recorded on that date and even subsequently till 06.04.2022. The FIR was registered on the basis of statement recorded by his father. There are specific allegations against the petitioner that he had caused injuries to the victim by striking blows with a knife. One of such injury had been found to be grievous and as per the opinion given by treating doctor on 21.02.2022, the life of victim was in danger. The prosecution evidence has since been concluded and the case is at defence stage. Meaning thereby no undue delay is going to take place in conclusion thereof. Keeping in view the gravity of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail, the antecedents of the petitioner and the attendant facts and circumstances of the case, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

2nd August, 2024

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*