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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(234) CRM-M-25103-2024 (O & M)
Date of decision:23.05.2024

Mukhtayar Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sarfraj Hussain, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.165 dated 27.07.2023 under Sections 323, 325, 452, 307, 506 and 34 IPC registered at Police Station Pinangwa, District Nuh, Haryana.

2. The present FIR came to be registered at the instance of Rasheed and reads as under:-

*"To, The Police Station, Police Station Pinangwa, District Nuh.
Subject: for taking legal action against Raseed s/o Deen Mohd, Aamir, Irfan. AArif S/o Rasid, Marsood, Shahjat, Akbar S/o Hameed, Hasan S/o Dallu, Badhhan @ Hasan S/o Abdul Rahim, Irshad S/o Musa, Faku s/o Balla, Muktar s/o Sahjat all residents of village gangwani P.S. Pinangwa, district Nuh. Sir, it is requested that, I, Rasheed, son of Usman, a permanent*



::2::

resident of Gangwani village, Thana Pinagwan, District Nuh, hereby submit the following complaint:

I am a law-abiding citizen and respectable person.

On July 25, 2023, I saw a photo of my niece Shajia d/o Mustak, on Ajaz's Facebook ID. I asked him who sent him this photo, and he informed me that it was sent by Mukhtar, son of Sahajat. Later, Mukhtar came to Israel's shop, and I asked him why he had posted my niece Shadiya's photo on his Facebook story. He responded with offensive language, claiming that I couldn't do anything to him. Subsequently, Mukhtar left for his home. After some time, the accused, along with other accomplices, arrived at our house carrying sticks, danda, and iron rod. They launched a brutal attack on us as soon as they entered our premises and accused dragged Tayyab and Imran from inside their house to chowk and they gave lot of beatings to Tayyab and Imran. Rasheed gave lathi blow which he was having in his hand on the head of Tayyab. Amir gave iron rod blow which he was having in his hand at the right hand of Tayyab, due to which his hand got fractured. Imran gave a lathi blow which he was having in his hand on the left hand of Tayyab. Accused Arif gave lathi blow which he was having in his hand on the buttocks(kulha) of Tayyab, accused Marsood gave a lathi blow which he was having in his hand on the head of Imran. Sahajat gave a lathi blow which he was having in his hand on the right foot of Imran due to which his foot got fractured and Hasan gave lathi blow on the arm of Imran. During the scuffle, the accused, Akbar, snatched Rs.12,500 and a mobile phone from Tayyab's pocket, while mukhtyar took Rs.3,300 and another mobile phone from Imran's pocket and Baddhan, Irshad and Farooq also gave legs and fist blows to me due to which, I received minor injuries. On the hearing the noise of quarrel Yahya, Azad, Asgar, and Rafik came on the spot who saved us from further harm. The accused while going, threatened us, saying that today you have been saved by these persons and



::3::

next time they will kill us. These accused are quarrelsome persons. Then we arranged a private vehicle and took the injured to the government hospital Punhana, from where they were referred to the Medical College in Nalhad due to the severity of their injuries. Therefore, I humbly request that a case be registered against the aforementioned culprits, and strict legal action be taken and our lives and property be protected. It will be kind of you.

Date: July 27, 2023

Sincerely.

S/d Rasheed (Complainant)".

2. The learned counsel for the petitioner states that the petitioner has been falsely implicated in the present case. The injury attracting Section 325 PC has been attributed to Aamir who has been granted bail vide order dated 07.05.2024 (Annexure P-2). As the petitioner was a first-time offender, in custody since 30.11.2023 but none of the 15 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

3. The learned counsel for the State, on the other hand, contends that the petitioner alongwith his co-accused brutally assaulted the complainant causing him serious injuries. The nature of the allegations levelled against the petitioner did not entitle him to the concession of bail. He, however, concedes that a co-accused had been granted bail, that the petitioner was in custody since 30.11.2023 and that none of the 15 prosecution witnesses had been examined so far.

4. I have heard the learned counsel for the parties.

5. The veracity of the prosecution case against the petitioner and

his co-accused shall be adjudicated upon during the course of the Trial.



::4::

Admittedly, the petitioner is in custody since 30.11.2023 but none of the 15 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

6. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Mukhtayar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

7. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other case/crime other than the present one.

8. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 23, 2024
sukhpreet

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No