

2024:PHHC:141209



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M-27109-2024 (O&M)
Date of decision : 28.10.2024**

Som Nath @ Kalu

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Brijeshwar Vashist, Advocate, for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.46 dated 23.03.2024, under Sections 307, 323, 148 & 149 IPC, registered at Police Station Anaj Mandi, District Patiala.

2. The brief facts of the case are that the complainant Constable Gurpreet Singh suffered a statement alleging that on 22.03.2024, he received information from the SHO that 40-50 young boys, who were armed with deadly weapons, had gathered near a school and the complainant was directed by the SHO to reach at the spot. While the complainant along with other police official proceeded towards the school he saw 40-50 boys, who were on motorcycles and were armed with weapons like dandas, sotis, swords etc. coming from the opposite side. On receiving instructions from the SHO he tried to stop them but the boys increased their speed and with intention to attack the police party, one of the motorcycle bearing No.PB-11-

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CK-5780, which was occupied by three boys, hit the complainant which caused fracture in right leg and assailants fled from the spot.

3. Learned counsel for the petitioner submits that the petitioner is 20 years of age and has been falsely implicated in this case. He further submits that no specific role has been attributed to the petitioner and he has undergone an actual custody of 07 months and 03 days and there is no other criminal case registered against him.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 07 months and 03 days and there is no other criminal case registered against him. He on instructions from the concerned investigation officer submits that the challan has been presented and charges have not been framed. Out of a total of 21 prosecution witnesses, none has been examined till date. He however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, challan has been presented and charges are yet to be framed. Out of a total 21 prosecution witnesses, none of the prosecution witness has been examined

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undergone an actual custody of 07 months and 03 days and is not involved in other criminal case. Therefore, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

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9 However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

 Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

28.10.2024
Ramandeep Singh

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