

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213 CRM-M-31645-2023
DATE OF DECISION:15.04.2024

HIRA SINGH ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Bipan Ghai, Senior Advocate with
 Mr.Nikhil Ghai, Advocate and
 Mr. P.S. Bindra, Advocate and
 Mr. Gurjas Gill, Advocate for the petitioner(s).
 Mr. J.S. Rattu, DAG, Punjab.
 Mr. Tarun Sharma, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail in case of FIR No. 0078, dated 04.07.2021, under Sections 302/307/336/324/323/506/148/149 IPC, 1860 and Sections 25/27/30 of Arms Act registered at P.S. Makhu, District Ferozepur.

2. Learned Senior counsel for the petitioner contends that as per the prosecution story, the role attributed to the petitioner is that he was armed with kirpan and gave kirpan blow on the sheen of Gurjit Singh and the second injury to Jasbir Singh whereas the gun shot was fired by co-accused Gurmeet Singh who was armed with 12 bore double barrel gun to Gurjit Singh but as per MLR report there is no sharp edged weapon injury on the body part.

3. A perusal of the MLR would also depict that it was reddish linear

abrasion 12.0 cm x 0.2 cm obliquely placed over antero lateral aspect of left leg just below the level of knee joint.

4. Learned State counsel has produced the custody certificate and the same is taken on record. According to the custody certificate, the petitioner is behind the bars for 1 year, 7 months and 4 days. He further submits that material witnesses are yet to be examined and the petitioner has been attributed sharp edged weapon injuries i.e. with kirpan.

5. Learned counsel for the complainant also vehemently opposes the concession of regular bail by asserting that the post mortem report given by the doctor has been neglected and the injury by sharp edged weapon is attributed to the petitioner.

6. Be that as is may, countering the argument raised by learned counsel for the complainant, the injury as per the MLR is reddish linear abrasion as is evident from the MLR. Considering the fact that the injury was not at vital part of the body and in any manner intent to invoke petitioner under Section 302 is eventually missing.

7. Considering the aforesaid facts and circumstances, custody period i.e. 1 year, 7 months and 4 days, charges have been framed on 01.04.2023 and that out of total 28 witnesses only 13 have been examined so far which is sufficient for this Court to infer the trial is likely to take time. Further this Court is sanguine of the fact that according to the proposition settled by the Apex Court that keeping somebody behind the bars, till his guilt is proved, for an indefinite period amounts to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “bail is a rule and jail is an exception”.

8. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.
9. In the afore-said terms, the present petition is hereby allowed.
10. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

15.04.2024
anuradha

Whether speaking/reasonedYes/No

Whether reportableYes/No