



CRM-M No. 31486-2024 1

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M No. 31486-2024 (O&M)
Date of Decision: 16.09.2024

Shubham @ Shiyam

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Pankaj Bali, Advocate for the petitioner.

Ms. Neha Sonawane, DAG, Punjab.

MAHABIR SINGH SINDHU, J.

Present **third** petition has been filed under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for grant of bail pending trial to petitioner in FIR No. 105 dated 11.07.2021, under Sections 307, 323, 324, 506 read with Section 34 of Indian Penal Code, 1860 (for short 'IPC') (Sections 325 and 326 IPC added later on), registered at Police Station Kathgarh, District Shaheed Bhagat Singh Nagar.

(2) Allegations are that petitioner along with co-accused in furtherance of their common intention caused grievous injuries on the person of injured/victim-Rakesh Kumar @ Choura with iron pipe and iron *kirch* with an attempt to kill him.

(3) Contends that petitioner has been falsely implicated in the present case; there is delay of two days in lodging the FIR; the petitioner has no motive to inflict injury on the person of injured; final report has already been presented on 06.10.2021; charges were framed by the concerned Court on 13.05.2022; but out of total 21 witnesses, only 9 witnesses have been

examined till date; thus conclusion of trial will take sufficient long time.



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Further contends that injured while appearing as PW-2 acknowledged in his cross-examination that he had no previous enmity with the petitioner. Lastly contends that petitioner is in custody since 14.07.2021 and he is not involved in any other criminal case.

(4) *Per contra*, learned State counsel vehemently opposed the prayer while submitting that allegations against the petitioner are serious in nature and he had caused the injuries which were declared dangerous to life. Further contends that in view of gravity and seriousness of offence, the petitioner does not deserve the concession of bail pending trial. Lastly submitted that in case petitioner is released on bail, there is likelihood of influencing the prosecution evidence and hampering the fair trial.

(5) Heard learned counsel for the parties and perused the paper book.

(6) There is no dispute that injured-Rakesh Kumar @ Choura has already been examined by learned trial Court as PW-2 and for reference, his testimony is recapitulated as under:-

“Stated that I am resident of Village Kathgarh and my sister Seema is married and is residing at Ratlewal and is a housewife. My sister Seema often come to the family to meet us. We are three brothers namely Rajesh Kumar, Vicky and me and we all are resident of Kathgarh Khurd. On 09.07.2021, I had gone to personal work to the grocery shop of Avtar Chand. My sister also came there. When I was near Marwal Chownk, the time would be around 09:00 PM and Government electricity lights were on. I was talking to the neighbour Munshi Ram near the wall. In the meantime, Shubam, resident of Khanna, presently resident of Kathgarh who was armed with iron kirch, Laddu armed with iron pipe, Pardeep Kumar who was armed with iron kirch and Sonu who was armed with iron pipe came from the Balley Street in front of Kathgarh Khurd. On coming, Pardeep Kumar started raising Lalkara to catch me and said that, "Do not let him go because he is defaming me that I suffering from Mirgi". Shubam inflicted three iron kirch blow on me which hit on the backside of my head and I was lying in the bloodpool. As I turned around then Pardeep inflicted injury with iron kirch which hit on my forehead and I fell down. Then Laddu gave two iron pipe blows which hit on my nose and right



hand. While I was lying on the earth, Sonu gave three iron pipe blows on me which hit on my left hand, left wrist and back. My sister raised hue and cry and on hearing her, people gathered there and on seeing them, all the four accused ran away from the spot after extending threats of killing me and ran towards Ghati Wali Street. I became unconscious. My sister called at 108. Ambulance reached on the spot. I was admitted in Civil Hospital, Balachaur in the state of unconsciousness for treatment where my condition worsened and doctor referred me to PGI, Chandigarh for treatment. My sister recorded her statement with the police being Ex.PW-1/A, which bears her signatures at point A. My statement was also recorded. I identify the accused who inflicted the injuries to me with the intention to kill me and had also criminally threatened with dire consequences.”

(7) Perusal of the above extract clearly reveals that petitioner along with other co-accused attacked the injured brutally and that has attracted Section 307 IPC. Petitioner has already been charge-sheeted by learned trial Court for the abovesaid offence; hence, *prima facie*, his complicity is apparent. Moreover, learned State counsel has raised an objection that in case petitioner is released on bail, he shall influence the prosecution witnesses and hamper the trial.

(8) In view of the above, there is no option, except to dismiss the petition, at this stage.

(9) Ordered accordingly.

(10) The observations made above be not construed as an expression of opinion on merits of the case; rather confined only to decide the present petition.

(11) Pending application(s), if any, shall also stand disposed off.

16.09.2024
Rajeev (rvs)

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No