



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

CRM-M-33285-2024

Date of Decision : **05.08.2024**

MUKESH KUMAR

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Davneet Sangwan, Advocate,
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for him being enlarged on regular bail, in case FIR No.247, dated 08.12.2023, under Sections 323, 506 and 34 of the IPC (Section 307 IPC, added later on), registered at Police Station Jagadhri, District Yamunanagar.

2. The instant FIR has been registered on a complaint made by Mahinder Singh. The relevant extract of the complaint which formed the part of FIR reads as under:-

“Brief facts of the prosecution case are that Case was registered on complaint of Mahinder Singh son of Nanak Chand, who stated that he was resident of village Kharwan, District Yamuna Nagar and had retired from Irrigation Department. He had two sons Mukesh Kumar and Gagan. Both were married. He had constructed two shops in his house towards the gali. In one of the shops, his son Mukesh Kumar was running business while the other shop was let out to Sumit Kumar, resident of Kharwan Ki Tapario on rent Mukesh Kumar son of Sham Lal was earlier running vegetables shop near their shops. Now he was running

business of groundnut and rewari etc. He had given a wooden takhat to Sham Lal for use in the shop. The wooden takhat was used by Mukesh Kumar for selling vegetables. Sham Lal died two months ago. Mukesh Kumar used to call his friends to his shop for consuming liquor. They protested against this act, on which account he started nursing grudge against his son Mukesh Kumar. The day before 7.12.2023 at about 7.00 p.m., when he was in his house, and his son Mukesh Kumar was on his shop, he heard noise of quarrel, upon which he and his daughter-in-law Manju went out in the gali and saw Pankaj Kumar and Mukesh Kumar sons of Sham Lal causing injuries to his son with dandas. He and his daughter-in-law tried to intervene and separate him, upon which, they both also gave danda blows to them. Then, his younger son Gagan came to the spot and he called Dial-112. After some time, police vehicle Dial-112 reached at the spot. On seeing them, Mukesh and Pankaj left the spot with their dandas after extending threats of death. He and his son Gagan shifted Mukesh Kumar and Manju to Civil Hospital, Yamuna Nagar, from where Mukesh Kumar was referred to PGI, Chandigarh. He had suffered injuries on head and was vomiting. They shifted Mukesh Kumar to Mullana Hospital, where he was under treatment. His head was operated upon. Accused Mukesh Kumar and Pankaj Kumar sons of Sham Lal caused injuries to his son Mukesh Kumar alias Jony and daughter-in-law Manju with dandas.”

3. The allegation against the present petitioner in the instant FIR, is that he alongwith co-accused Pankaj Kumar, gave beatings to the son of the complainant with sticks, and when the complainant alongwith his daughter-in-law, tried to free the son of the complainant, both the accused started giving beatings/injuries to them as well.

4. Learned counsel for the petitioner, in asking for the relief of regular bail, submits that co-accused Pankaj Kumar, has already been granted the relief of anticipatory bail by this Court vide order dated 16.05.2024 in CRM-M-15608-2024.

5. He further submits that though the injury which is attributed to the present petitioner, attracts the penal provision of Section 307 IPC, however, it is yet to established by the prosecution, before the learned trial court concerned by adducing evidence, as there was no intention on the part of the petitioner to cause murder of the complainant, as alleged in the present petitioner.

6. He also submits that the petitioner has suffered sufficient incarceration of approximately 7 months, and has clean antecedents.

7. Notice of motion.

8. Mr. Bhupender Singh, DAG, Haryana, accepts notice on behalf of respondent-State and vociferously opposed the asked for relief (*supra*), on the ground that the present petitioner is the main accused, who has caused injury on the head of the victim by a wooden plank, which was subsequently, declared as dangerous to life.

9. During the course of arguments, he has also placed on record a custody certificate *qua* the petitioner, which is taken on record. It reveals that the petitioner has suffered incarceration of 6 months and 29 days as on today, and he is not involved in any other criminal case.

10. He further, on instructions imparted to him by the police official concerned, submits that the final report in the instant FIR, has already been filed on 20.04.2024, and thereupon, the learned trial court concerned, has framed charges on 08.07.2024, and out of the total 15 prosecution witnesses cited by the prosecution, none has been examined so far.

11. This Court has heard the learned counsel for both the parties concerned, and has gone through the entire case file.

12. Be that as it may, considering the fact that the petitioner has suffered incarceration of 6 months and 29 days as on today, and he is not involved in any other criminal case, and the trial is yet to commence as out of the total 15 prosecution witnesses cited by the prosecution none has been examined, coupled with the fact that the co-accused of the

petitioner has been granted the relief of anticipatory bail, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner, during the pendency of trial. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail, on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

13. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as is involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

August 05, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No