



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

Sr. No.230-1

CRM-M-33634-2024
Date of decision : 30.09.2024

ROHIT KUMAR

..... Petitioner

VERSUS

STATE OF HARYANA

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ashish Sharma, Advocate and
Mr. Arun Sharma, Advocate for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

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.23 dated 08.02.2024, under Sections 147, 148, 307, 323, 326, 379B of IPC, registered at Police Station Ismailabad, District Kuruksehtra.

2. The brief facts of the case are that on 07.02.2024, Amit Kumar was admitted to PGI, Chandigarh, after sustaining injuries in a scuffle on 06.02.2024. Police official visited the hospital, but the doctor declared Amit Kumar unfit to record a statement. Thereafter on 08.02.2024, Amit was declared fit to record his statement and said that on 06.02.2024, while returning to his car in Ismailabad, six motorcyclists nearly hit him. When he asked them to drive carefully, two riders attacked him. Sparsh Kansal and Vijay Vicky Multani assaulted him with knives, seriously injuring his eye, and a gold chain was snatched from him.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case and he has not been named in the FIR. He also submits that no injury is attributed to the petitioner and



the injuries with knife are attributed to co-accused Harpreet. The petitioner has already undergone an actual custody of 07 months and 18 days and he is not involved in any other criminal case.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel has filed the custody certificate in Court today, which is taken on record. As per the custody certificate, the petitioner has undergone actual custody of 07 months and 18 days and there is no other case registered against him. He further on instructions submits that the investigation of the case is complete and out of 15 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 levelled against the petitioner shall be established during the course of the trial. Admittedly, the investigation is complete and out of 15 prosecution witnesses, none has been examined till date. The petitioner has undergone actual custody of 07 months and 18 days and there is no other case registered against him. The conclusion of the trial will take considerable time and further incarceration will not serve any purpose.

7. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and detaining the accused persons in jails would also tantamounts to violation of Article 21 of the Constitution of India including the right to speedy trial, and



is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in “Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22”.

8. 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.

9. 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.

10. 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.

(KIRTI SINGH)
JUDGE

30.09.2024

Kavita

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No