

2024:PHHC:117674



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

Sr. No.217

**CRM-M-35555-2024(O&M)
Date of decision : 09.09.2024**

Makkhan Singh @ Sulakhan Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. A.K. Khunger, Advocate, for the petitioner.

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

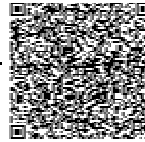
KIRTI SINGH, J. (Oral)

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.0044 dated 02.05.2024, under Sections 324, 341, 323 & 34 IPC (offence under Section 326 IPC added subsequently), registered at Police Station Khuian Sarwar, District Fazilka.

2. The brief facts of the case are that when the complainant was returning from his fields to his house on his tractor, three youngsters, who were consuming liquor, attacked the complainant when he asked them to leave the passage. Petitioner gave a kirpan blow hitting backside of his head. Co-accused Kuldeep Singh @ Raju gave an iron kappa blow which hit little finger of his left hand. When he alighted from the tractor, Ravi Singh gave an iron pipe blow hitting his chest. He fell down and all the three assailants gave him kick and fist blows.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He submits that after registration of

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the FIR, the police has wrongly added the offence under Section 326 IPC. He further submits that the petitioner was not present at the time of the occurrence. As per the allegations, the petitioner gave a kirpan blow on the back side of the head of the complainant and even as per the medical report, the injury attributed by the petitioner is simple in nature. The petitioner has undergone actual custody of 03 months and 14 days and is not involved in other criminal case.

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 03 months and 14 days and there is no other criminal case registered against him. He on instructions from the concerned investigating officer submits that charges have been framed on 27.08.2024 and out of a total of 12 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 have been framed. None of the prosecution witness have been examined till date. The petitioner has undergone actual custody of 03 months and 14 days and he is a man of clean antecedents.

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Therefore, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

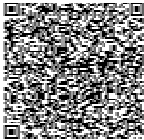
7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.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

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.

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

(KIRTI SINGH)
JUDGE

09.09.2024

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No