

2024.PHHC.144984



227.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44638-2024
Date of decision: 06.11.2024

Himanshu Petitioner

Versus

State of Haryana and another Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Naveen Kashyap, Advocate, for
Mr. Shailender Kashyap, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana, for respondent No.1.

Mr. Parshant Sethi, Advocate, for respondent No.2.
(through Video Conferencing).

GURBIR SINGH, J.

1. This is second petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.0746, dated 03.09.2023, under Sections 323, 506 of IPC (Sections 325, 307, 201, 34 of IPC added later on) registered at Police Station Sector 58, Faridabad. The earlier petition i.e. CRM-M-18735-2024 was dismissed as withdrawn qua the petitioner vide order dated 09.07.2024.
2. As per the version of prosecution, on 03.09.2023 at about 2:00 PM, when the complainant-Deepak Kumar Singh was parking his scooty inside his house, then Pushpender and Himanshu (petitioner herein) came in their auto-rickshaw and started using filthy abuses to him. After parking his

scooty inside the house when the complainant came outside, at that time, they had left. Thereafter, the complainant along with his friends/ neighbourer Jairam Pandey and Deepak Kumar went to the house of Pushpender to complain about his act and conduct and his mother apologized for his act. However, when the complainant along with his neighbourer were returning back, said Pushpender and petitioner attacked the complainant from behind with bricks and stones, due to which, he suffered injuries. They were stopped by his said friends from doing so.

2.1 Initially, the FIR was registered under Sections 323 and 506 of IPC. The injuries sustained by the complainant were declared as dangerous to life, so Sections 325 and 307 of IPC were also added in the case. Petitioner and co-accused were arrested in the case on 03.11.2023 and on the basis of their disclosure statements, Sections 201 and 34 of IPC were also added.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present FIR. Petitioner is in custody since 03.11.2023. Investigation in the case has been completed and challan has been presented. It is submitted that the petitioner and co-accused are brothers and the complainant is their neighbourer. The parties have entered into compromise and a petition (CRM-M-41607-2024) for quashing of instant FIR on the basis of compromise has also been filed before this Court. The co-accused has already been released on bail vide order dated 09.07.2024.

4. Pursuant to order dated 04.11.2024, status report by way of affidavit dated 04.11.2024 of Vivek Kundu, HPS, Assistant Commissioner of Police, Mujesar, District Faridabad, on behalf of respondent-State, has been filed in Court today, which is taken on record.

4.1 Learned State counsel has opposed the bail petition by contending that the allegations against the petitioner are serious in nature. The injuries inflicted on the person of complainant have been opined as dangerous to life. He is involved in one more FIR. However, he has fairly admitted that quashing petition of instant FIR on the basis of compromise has been filed before this Court which is pending consideration for 29.11.2024. The petitioner is in custody since 03.11.2023 and challan has already been presented.

5. I have heard the submissions of learned counsel for the parties.

6. Considering the fact that the petitioner is in custody since 03.11.2023 i.e. for more than 1 year; matter has been compromised between the parties, although compromise in such a case is not a ground to give concession of bail to the accused, but since complainant has already been examined and quashing petition has already been filed, this Court deems it appropriate to release petitioner on regular bail.

7. Accordingly, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty

Magistrate, with the further condition that he shall get his mobile number registered in the trial Court for receiving messages on CIS system and shall not change his mobile number during the pendency of the case. He shall also furnish his residential address to the trial Court as well as to the concerned police station and shall not change his residence without intimation to the concerned court. The court concerned may impose any other condition as it deems fit. In case of default, the trial Court is free to cancel the bail granted to the petitioner.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

November 06, 2024
sanjeev

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No