



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

207

CRM-M-44422-2024

Date of decision: 13.09.2024

Balwinder Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amit Jaiswal, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C./483 of the BNSS, 2023 in case FIR No.0226 dated 22.09.2023 under Sections 323, 324, 34, 452, 506 of the IPC (Sections 325/307 of the IPC added lateron) registered at Police Station Panjokhra, District Ambala.

2. Learned counsel for the petitioner submits that the petitioner has now been in custody for almost one year having been arrested on 04.10.2023. While drawing the attention of this Court to the allegations levelled in the FIR in question which has been annexed as Annexure P-1, it has been argued that the petitioner was allegedly armed with a danda with which he is stated to have inflicted injuries on the person of both the complainant and his wife Vidya Devi. Learned counsel has still further argued that the injury inviting the mischief of Section 307 of the IPC cannot be attributed to the petitioner as he was



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even as per the case of the prosecution, armed with only a danda. Learned counsel has submitted that the investigation in the present case is complete as challan stands presented, however, till date the trial has not made any headway as charges are yet to be framed and hence, the possibility of the trial concluding in the near future does not arise, moreso when 11 prosecution witnesses have been cited.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has drawn the attention of this Court to the allegations levelled in the FIR which stands reproduced hereinunder:-

"Sir, copy of the writing is to the effect that : Statement of Sohan Lal son of Baldev Singh, resident of village Fatehgarh, Police Station Panjokhra, District Ambala, aged 46 years, mobile no. 9996670221. Stated that I am resident of aforesaid address and am agriculturist by profession. We are two brothers and three sisters, who all are married. My father resides with my younger brother, namely, Rajesh Kumar. My father has divided all the shares in the properties between both his sons. Plot located on main road upon which house has been constructed had fallen to my share, however, my uncle (Taya) Singh Ram is claiming his share out of this vacant plot of mine irrespective of the fact that he does not have any share in this land. I have raised construction of boundary wall over the plot of my share many years ago and have raised construction of house as per the site plan on my plot and due to which I was dismantling the old wall and after digging foundations was raising a new wall and my uncle and his grandsons, namely, Balinder Singh and Harwinder Singh alias Bunti sons of Hukam Chand were not pleased with my raising construction of this wall and yesterday, on dated 21.9.2023 at about 10:00 O'clock, during day time, when myself and my wife Vidhya Devi were sitting on cot in 'baramda' of our house, then Singh Ram-my Taya and his grandsons Gulab Singh, Balinder Singh and Harvinder Singh alias Banti, abruptly entered inside my house and suddenly, Gulab assaulted with axe wielded by him, on my head and then, Singh Ram assaulted upon me with lathi held by him, due to which I fell down on ground from the cot and Harvinder alias



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Banti and Balinder Singh assaulted me with the spade and danda wielded by them respectively while lying on the ground and number of injuries were inflicted on my person and when these persons were giving beatings to me, then, my wife Vidhya Devi, while crying, in order to save me, fell upon me and they persons also inflicted injuries on the head arm of my wife with axe, danda and spade, wielded by them. Gulab Singh inflicted axe blow on the head of my wife and Singh Ram and Balinder Singh, Harvinder Singh alias Banti caused three fractures on the arm of my wife by inflicting blows with spade and dandas wielding by them and have caused injuries to me and my wife with an intent to kill. Had my wife not fallen upon me in order to save me, then, all these persons would have eliminated me. Then, on hearing alarm of both of us and after inflicting injuries to us, all of them along with their respective weapons, fled away from the spot while asserting that we will not give up land/plot. The labourers working on the spot also rushed away on seeing the feud. My friend Manmohan Lal, resident of Fatehgarh, brought me to Shehzadpur Hospital for treatment, from where doctor, after providing first aid, referred me to Civil Hospital, Ambala City, where we both are undergoing medical treatment and I have been discharged from the hospital, while, my wife is still hospitalized. Stern legal action against Singh Ram, Gulab Singh, Harvider alias Banti and Balinder Singh, who have caused injuries to me and my wife, may be initiated. Today, I have got recorded my aforesaid statement with you in G.H. A/City; heard and it is correct. Sd/ Sohan Lal 9996670271. Attested Manjeet Singh ASI PP Patvi, dated 22.9.23.”

4. Learned State counsel has asserted that the petitioner was named in the FIR and he along with the co-accused, without any provocation attacked the complainant party. However, he has not been able to dispute on instructions that the injury which was declared dangerous to life was an incised wound on the head of injured Vidya Devi, and the petitioner as per allegations was armed with only with a danda. The stage of the trial has also not been disputed by the learned State counsel. Learned State counsel on further instructions has



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submitted that identically placed co-accused Singh Ram and Harvinder Singh have since been enlarged on bail by the learned Trial Court.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The petitioner has been in custody for almost a year having been arrested on 04.10.2023. The trial is unlikely to conclude in the near future. Prima facie, the injury inviting the mischief of Section 307 of the IPC does not seem to have been caused by the petitioner as admittedly he was not armed with any sharp edged weapon. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

13.09.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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