

CRM-M-48078-2023 (O& M)
(232)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-48078-2023 (O & M)

Date of decision: 09.01.2024

Nadeem Ahmed

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rana Gurtej Singh, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Rajneesh Budhiraja, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.32 dated 06.03.2023 under Sections 323, 325, 341, 506, 120-B IPC and Section 307 IPC (added later on) registered at Police Station Balongi, District SAS Nagar, Punjab.

2. The present FIR came to be registered at the instance of Mohammad Javed, which reads as under:-

“Copy of statement, "Statement of Mohammad Javed son of Raseed resident of H.No.518, Near Gurudwara Sahib Maloya, Chandigarh aged about 24 years Mob. No.8054037867 stated that I am resident of the above said address and does the job of Mistry. My sister Naziya wife of Jakir resides at H.No.207, Jhampur. On 28.02.2023 at 11.00 P.M., I and my brother Jumed and friend Ravi went the house of Naziya to drop the bed mattresses. The person named as Tajim alongwith his family are residing as tenant in the house of my

sister Naziya. My sister was talking with tenant Tajim, then Tajim started talking loudly with my sister and started arguing with my sister. On hearing the noise, my younger brother Juned and Ravi went close to them and asked him to behave properly. Tajim also abusing us and made telephonic call from his mobile and called his brothers Vaseem, Nadeem, Najim, Faim, Kasim, Irfan, Tajim and all these started beating us. They were armed with dandas, sticks. Nadeem who was armed with knife gave blow in my abdomen and Najeem gave punch blow on my chest and Vaseem, Faim, Kasim and Irfan and Tajim gave Sota blow (Danda) at my younger brother and Ravi, and gave punch blow and legs blow. We tried to fled away from the place of incident, then they surrounded us and gave beating. We raised alarm saved us, then after giving threat to kill fled away from the scene. Our relatives had brought us to Civil Hospital Kharar for treatment but doctor referred me to PGI Chandigarh for treatment where operation of my abdomen was conducted and am under treatment. The nerve of abdomen had been cut. Kindly action against Vaseem, Nadeem, Najim, Faim, Kasim, Irfan and Tajim resident of Jhampur be taken. Statement has been got recorded, read over and its contents are admitted to be correct. Sd/- Mohammad Javed. Verify the statement to be correct. Sd/-Junaid. Certified. Sd/- Bawinder Kumar, ASI Police Station Balongi Dated 06.03.2023”.

3. The learned counsel for the petitioner contends that it is a case of version and cross-version. Initially, the petitioner had been granted the concession of bail. Subsequently, on obtaining the opinion that the offence was one under Section 307 IPC, the petitioner sought the concession of anticipatory bail which was dismissed, pursuant to which he surrendered. As the petitioner was now in custody since 14.08.2023, the investigation stood completed but none of the 11 prosecution witnesses had been examined so

CRM-M-48078-2023 (O& M)
(232)

::3::

far, the Trial of the present case was not likely to be concluded anytime soon. Therefore, the petitioner was entitled to the concession of bail, moreso, when he was a first-time offender.

4. The learned counsel for the State, on the other hand, has filed a reply dated 28.11.2023, which is taken on record. While referring to the said reply, he alongwith the learned counsel for the complainant contend that the petitioner was the main accused. As the injury attracting Section 307 IPC had been attributed to the petitioner, therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 14.08.2023, none of the 11 prosecution witnesses had been examined so far and that he was a first-time offender.

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

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first-time offender, in custody since 14.08.2021 and none of the 11 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Nadeem Ahmed is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.25,000/- and deposit the same with the

CRM-M-48078-2023 (O& M)
(232)

::4::

Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 09, 2024
sukhpreet

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