

CRM-M-50444-2022 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(207)

CRM-M-50444-2022
Date of decision:- 08.01.2024

Jaswinder Singh @ Golu ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab
for State-respondent.

Mr. Himmat Singh Sidhu, Advocate
for the complainant.

SUVIR SEHGAL, J. (ORAL)

1. This is the third petition filed under Section 439, Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
241	23.11.2020	Division No.2, District Pathankot, Punjab	307, 326, 324, 323, 120-B, 148 and 149, IPC

2. Version of the prosecution is that FIR, Annexure P-1, has been registered by Tarun Puri on the allegation that there is a dispute regarding a plot adjoining his house with Reshma Kuthiale, who along with her family members, tried to raise a construction there on 22.11.2020. They were

CRM-M-50444-2022

-2-

restrained from doing so by Rajiv Puri and Anudeep Kaushal, brothers of the complainant. At about 06:15 P.M., the accused along with Jaswinder Singh @ Golu, present petitioner, who was armed with a kirpan, Rahul Mahajan armed with datar iron, Puri Ahatewala with a baseball bat, Bhuto carrying a datar, along with 2-3 unknown persons, came and attacked them on instigation by Shreya Kuthiala. Jaswinder Singh @ Golu hit Rajiv Puri with the kirpan (sword) thrice. In the meantime, Rahul Mahajan gave a datar blow on Rajiv's arm, which hit on his wrist and he fell on the ground. Bhuto, Ashriya Kuthiala and Puri Ahatewala and unknown persons also inflicted injuries on him after he had fallen. An alarm was raised and when the neighbours started gathering, the accused fled from the spot with their weapons.

3. By referring to the MLR, Annexure P-2, counsel for the petitioner submits that although initially FIR was registered under Section 307, IPC, but on the basis of the MLR, Annexure P-2, offence under Section 326, IPC was added vide G.D. No.18 dated 26.12.2020, Annexure P-6. He contends that the other two injuries attributed to the petitioner have been declared to be simple, and even though offence attracting Section 307, IPC is not made out, but it has not been deleted. It is his case that a cross-case has been registered and the petitioner and Rohit have been injured. Counsel submits that though petitioner is named as an accused in three other criminal cases, yet one of the FIRs has been quashed on the basis of a compromise by order dated 19.07.2023 passed by this Court in CRM-M-23553-2023. He asserts that the other two FIRs have been registered for minor offences. Counsel submits that application under Section 319, Cr.P.C. filed by the

CRM-M-50444-2022

-3-

prosecution has been allowed by the Trial Court, some additional accused have been summoned and charge has been framed afresh, but no prosecution witness has been examined. He submits that the petitioner, who is in detention since 24.03.2021, deserves to be enlarged on bail as he is languishing in custody and there is no possibility of an end to his agony.

4. *Per contra*, State counsel, upon instructions from ASI, Tarsem Singh, has opposed the petition. She is assisted with counsel for the complainant. State counsel could not dispute that there is no medical opinion to the effect that the injury attributed to the petitioner has been declared to be dangerous to life. She submits that the petitioner was declared as a proclaimed offender and was arrested in March, 2021. A joint submission has been made by both the counsels that as the vital prosecution witnesses have not been examined, the prayer made in the petition should not be acceded to. It could not be disputed by them that a cross case has also been registered, which is pending before the learned Judicial Magistrate and an application for clubbing has been filed, but it is yet to be adjudicated.

5. I have heard counsel for the parties and considered their respective submissions.

6. It is a case of version and cross-version and the petitioner as well as another co-accused have suffered injuries. It is yet to be determined as to which of the two sides is the aggressor. Petitioner has been in detention for the last more than thirty three months. Trial is at a nascent stage. Although, petitioner evaded the process of law, he was declared as a proclaimed offender, but after his arrest, he has spent enough time in detention.

CRM-M-50444-2022 -4-

Keeping in view the above factors, this Court is inclined to accept the prayer made in the petition.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.

8. While being released on bail, petitioner shall furnish an undertaking by way of an affidavit to the effect that he will not try to approach the complainant or other witnesses cited by the prosecution or intimidate them or try to influence them during the pendency of the trial. In case, he violates this condition, liberty is granted to the State to seek cancellation of bail.

9. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

08.01.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No