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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-47048-2024

Date of Decision: 07.11.2024

Kuldeep Singh @ Raju

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Kuldip Singh, 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 contents of the above-mentioned FIR are reproduced herein below:-

“Statement of Ramandeep Singh son of Norang Singh son of Jail Singh, resident of village Kalerkhera, Police Station Khuian Sarwar, aged about 41 years, Mobile No.62396-17974. Stated that I am resident of above said address and engaged in agriculture. On 01.05.2024 a about 1:45 PM, I was going back to my home from my fields on my tractor and when I was going on ring road towards my village Kalerkhera from Abohar- Sri. Ganganagar National Highway.



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When I reached near Sweeta Chicken Centre (Dhaba) then three youths were consuming liquor in the middle of road to whom I knew, whose names are Makhan Singh son of Bittu Singh, Kuldeep Singh @ Raju son of Surjit Singh and Ravi Singh son of Binder Singh, residents of Tootwala. To whom I asked to leave the passage then out of them, Makhan Singh armed with kirpan came and gave blow on my head which hit on the backside of my head. In the meantime, behind him Kuldeep Singh @ Raju gave iron Kaapa blow while sitting on small field tractor. I raised my left hand for saving myself then iron Kaapa hit on little finger of my left hand and I get down from the tractor. Meanwhile, Ravi Singh gave iron pipe blow on my chest. I fell down then all three assailants gave kick and fist blows. I raised alarm then on seeing the peoples gathering, three above said youths fled away from the spot along with their weapons. Then uncle (Chachal's son Sukhpal Singh Aulakh son of Surjit Singh arranged the vehicle and got me admitted in CH Abohar where I am under treatment. The bone of contention is that I was coming back home from my fields on the tractor then above said youths were consuming liquor in middle of the road and when I asked them to leave the passage then all three of them attacked me with the weapons holding in their hands. Appropriate action be taken against them. Statement has got been recorded before you, heard, which is correct. Sd/- in English Ramandeep Singh. Sd/ in English Sukhpal Singh. Attested Sd/ Iqbal Singh ASI PS Khuian Sarwar dated 02.05.2024. Police proceedings: Today a call from MHC Police Station Khuian Sarwar has been received that MLR has been sent to you through email by Police Post Kalerkhera, action be taken on the same. Upon which I Ast along with SC Robin Kumar 806/FZK, Om Parkash 1114/FZK and CT. Tajinder Singh 1156/FZK on MLR No.SK/103/SDH/ABH/24 dated 01.05.2024 of Ramandeep Singh son of Naurang Singh resident of Kalerkhera in which the doctor has mentioned total 4 injuries, out of which injury No.1 and 2 from sharp weapon and injury No.3, 4 have been mentioned to be inflicted from blunt weapon. After



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obtaining the same, reached at CH Abohar where injured found present on his bed along with his uncle's son Sukhpal Singh who got his statement recorded before me/ASI. Statement has been read over and understood to him word by word according to his version. Who after hearing and admitting his statement as correct appended his signatures in English. Sukhpal Singh identified the statement and appended his signatures in English. I attest the statement. From the statement, offence u/s 324, 341, 323, 34 IPC is found to be made out. Statement is being sent to police station through CT Tajinder Singh 1156/FZK for registration of case. After registering the case, FIR number be intimated. PCR Fazilka be informed. Action will be taken upon the result of injuries kept under x-ray observations. I ASI along with fellow officials has left for conducting the raid at the house of accused. Today in the area of CH Abohar at 7 PM. Sd/ Iqbal Singh ASI PS Khuian Sarwar dated 02.05.2024. Today at police station: On receipt of above said statement to police station, after registering the case under above offences against accused, original statement alongwith copy of FIR is being sent on the spot to ASI through CT. PCR Fazilka is being informed.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He submits that after registration of 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 kapa blow on the little finger of left hand 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 05 months and 12 days and one more case is registered against him, however, he is on bail in that case. He further submits that the co-accused Makkhan Singh @

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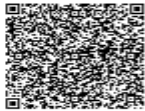
Sulakhan Singh has been granted the concession of regular bail by this Court vide order dated 09.09.2024 passed in CRM-M-35555-2024.

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 05 months and 12 days and there is one more criminal case registered against him, however, he is on bail in that case. Learned State counsel 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 05 months and 12 days. The co-accused Makkhan Singh @ Sulakhan Singh has already been granted the concession of regular bail by this Court vide order dated 09.09.2024 passed in CRM-M-35555-2024, 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



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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.

07.11.2024
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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No