

(216)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49434-2023
Date of Decision: 08.01.2024

BALWINDER SINGH @ KITTU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Riffi Birla, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.13 dated 12.02.2023 registered under Sections 307/323/34 IPC at Police Station Arniwala, District Fazilka.

2. The present FIR came to be registered at the instance of Mukhtiar Singh son of Gurdeep Singh who stated that on 11.02.2023 at about 8 o'clock in the evening, when he and his brother Chhinder Singh were returning from their fields and reached near the house of Balwinder Singh @ Kittu (petitioner) son of Lachman Singh, Balwinder Singh @ Kittu attacked with a Kasiya on the head of his brother Chhinder Singh who fell down. In the meantime, Jaswinder Kaur wife of Balwinder Singh @ Kittu came there who took the Kasiya from her husband and attacked him (complainant) on his back. On raising an alarm, the accused fled away from the spot.

3. The learned counsel for the petitioner contends that the allegations against the petitioner and his co-accused are baseless. However, taking the allegations to be correct, no offence under Section 307 IPC was made out. Be that as it may, as the petitioner was in custody since 16.02.2023, the challan stood presented but none of the 15 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail moreso when the injured-Chhinder Singh was hale and hearty and carrying out his daily pursuits.

4. On the other hand, the learned State counsel while referring to the reply dated 29.11.2023 contends that the petitioner was the main accused. The injury attributed to the petitioner was one attracting Section 307 IPC. Therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 16.02.2023, none of the 15 of the prosecution witnesses had been examined so far and that injured-Chhinder Singh has not suffered any permanent impairment.

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 in custody since 16.02.2023, none of the 15 prosecution witnesses have been examined so far and his co-accused Jaswinder Kaur has been granted the concession of bail vide order dated 21.09.2023 (Annexure P-2). 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-Balwinder Singh @ Kittu son of Lachman Singh 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. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.
9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

08.01.2024
JITESH

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