

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-53166-2023

Reserved on: 05.02.2024

Pronounced on: 08.02.2024

2024:PHHC: 017809

SUMIT SABHARWAL ALIAS NANNU

. . . . PETITIONER

Vs.

STATE OF PUNJAB

. . . . RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Rajeev Sharma, Advocate, for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439, petitioner prays for his release on regular bail in case FIR No.58 dated 29.03.2023 under Sections 307/323/506/148/149 IPC registered at Police Station Division 8, Ludhiana, Punjab.

2. Status report dated 20.12.2023 by way of affidavit of Shri Gurpreet Singh, Detective-II, Additional Charge (ACP Civil Lines), Ludhiana, on behalf of the respondent/State has been received.

3. FIR is based on the statement of Abdul Muteen made on 29.03.2023, as per which his son Husain along with his friends had gone out on 28.3.2023 at about 08:00 PM. He (Abdul Muteen) received a call at 10:30 PM to the effect that his son had a fight with some people and was badly injured and when his friends tried to intervene, they were also caused injuries and taken to Civil Hospital. Complainant reached the hospital, but his son was found to have been referred to DMC hospital. He reached there, where his son Husain was unconscious due to injuries. His elder son Aman

Ranja told him that Husain along with his friends Aditya and Dinesh had gone to a fast food shop on Varindavan Road, when at about 9:40 PM, **Sumit Sabharwal @ Nannu** (*petitioner*) armed with an iron khanjar accompanied by co-accused **Billu Mahi, Jimmi, Sonu alias Champion and Ankit alias Harami** and 10 unidentified persons, all armed with weapons, attacked Husain with their weapons. Attribution to the petitioner-Sumit Sabharwal @ Nannu is that he hit dasti khanjar on the head of Husain. It was also alleged that when his friends tried to intervene, petitioner gave dasti khanjar blow to Dinesh, hitting him on his left elbow. Other assailants also caused injuries to Husain and his friends. FIR was registered and petitioner was arrested on 03.04.2023.

4.1 Ld. counsel for the petitioner has placed on record copy of the statement made by Husain during investigation on 10.05.2023, as per which petitioner is attributed to have given iron khanjar blow on his head. Besides, petitioner is also attributed to have given khanjar blow to Dinesh on his elbow.

4.2 Ld. counsel contends that complainant was provided information about the occurrence by his elder son Aman Ranja, though he was not present at the time of occurrence and thus, is not an eye witness. Further attention is drawn to the fact that though as per the FIR, complainant was never referred to DMC Ludhiana in unconscious state, but as per medical records, he had gone there at his own. Ld. counsel further pointed out towards the medico legal report (Annexure P4) of Husain Raja reveals three injuries on his person, out of which the injury on his head is only in the form of abrasion.

4.3 Ld. counsel for the petitioner further contends that in order to

make it a serious offence, complainant Husain Raja produced 12 X-ray films. Their authenticity being doubtful, it was directed that these X-ray films be got verified by the concerned Radiologist of Dayanand Medical College and Hospital, Ludhiana and then it was found by Radiologist of Civil Hospital, Ludhiana that out of 12 X-ray films, 3 pertain to left elbow, whereas other 9 did not correspond to any of the injuries as mentioned in the MLR of Husain.

4.4 Still further, Id. counsel points out that though as per the FIR and also as per the statement of injured Husain, he was caused injuries by the petitioner with an iron khanjar, but recovery of Takuya iron has been shown from the petitioner, as is evident from Annexure P5. Ld. counsel contends that there is a big difference between khanjar and Takuya and that petitioner has been falsely implicated. Criminal antecedents of complainant Husain Raja are also pointed out, who is involved in four criminal cases, as per details given in para No.12 of the petition.

4.5 Ld. counsel for the petitioner also pointed out that petitioner is in custody for the last more than 10 months; that trial may take time to conclude and so, petitioner be granted bail.

5. Ld. State counsel opposed the petition by pointing out towards the grave nature of offence. However, it is not disputed that as per the MLR, injury on the head of the complainant injured Husain Raja is in the form of abrasion. It is further revealed that out of 12 X-ray films produced by injured, 9 were found to be not corresponding to any of the injuries as mentioned in the MLR of the complainant. Status report also reveals that even the charges have not been framed till date, though case has already been committed. Petitioner is in custody for the last 10 months and

3 days as per the custody certificate placed on record and thus, trial is likely to take long time to conclude.

6. Having regard to all the facts and circumstances as noted above, but without commenting anything further on merits of the case, petition is allowed. Petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, by observing usual terms and conditions.

08.02.2024

Vivek

(DEEPAK GUPTA)

JUDGE

1. Whether speaking/reasoned?

Yes

2. Whether reportable?

No