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

CRM-M-52224-2024

Date of Decision:28.11.2024

MUDASSIR AND OTHERS

...Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Afjal Hussain, Advocate for the petitioners.

Mr. Karan Garg, AAG, Haryana.

Mr. Akram Hussain, Advocate for the complainant.

KARAMJIT SINGH, J.

At the outset, counsel for the petitioner No.2 made prayer that he be permitted to withdraw the present petition even on behalf of petitioner No.2. So, the present petition is dismissed as withdrawn qua petitioner No.2.

Earlier the present petition filed on behalf of petitioner No.1 was also dismissed as withdrawn vide order dated 11.11.2024.

1. Petitioner No.3 Kasam has sought for grant of regular bail in a criminal case having FIR No.139 dated 08.05.2024 registered for the offences punishable under Sections 148, 149, 323, 452, 506, 326 of IPC at Police Station Punhana, District Nuh.

2. The allegations in nutshell are that at the time of occurrence, petitioner No.3 Kasam along with his co-accused Mudassir and Toshif both of whom were armed with wooden dandas assaulted Umar Mohd.,



and Sajid. As per the record it is apparent that Mudassir gave danda blow on left eye of Umar Mohd, as a result of which left eye of Umar Mohd was permanently damaged. During investigation, petitioner No.3 Kasam was arrested.

3. Counsel appearing on behalf of petitioner No.3 Kasam submits that said petitioner is falsely nominated in the FIR and otherwise also he was empty handed and no specific injury is attributed to him. It is further submitted that after completion of investigation police has presented challan and it will take time for the trial to conclude. In the given circumstance, no purpose is going to be served by prolonging the judicial custody of the petitioner who is incarcerated for the last more than 4 months and is having no criminal antecedents.

4. Present petition is contested by the State Counsel, who submits that there was common intention on part of the petitioner No.3 Kasam and his accomplices and in furtherance of the said common intention they attacked Umar Mohd and Sajid and co-accused Mudassir caused injury on left eye of Umar Mohd with wooden danda as a result of which the said eye of has been permanently damaged. However, the State counsel on instructions from ASI Navneet has not disputed the fact that petitioner No.3 Kasam was not carrying any weapon and kick blows and pelting of stones are attributed to Kasam who is in custody for the last more than 4 months and is not involved in any criminal case. The State counsel also apprised the Court that on culmination of investigation, challan has been presented but charges are yet to be framed.



5. Present petition is also resisted by counsel appearing on behalf of complainant who submits that no doubt the petitioner Kasam was stated to be empty handed but is equally liable for the injuries caused by co-accused Mudassir and Toshif with the aid of Section 34 of IPC.

6. I have considered the submissions made by the counsel for the parties.

7. Apparently, it appears that the petitioner No.3 Kasam was unarmed and only fist blows and stone pelting is attributed to him whereas the main injury in the left eye of Umar Mohd is attributed to co-accused Mudassir. The injuries attributed to the present petitioner Kasam appears to be simple in nature. Further the petitioner is in custody for the last more than 4 months but it will take time for the trial to terminate. It being so, no purpose is going to be served by keeping the petitioner Kasam in custody for any longer period.

8. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner No.3 Kasam is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. However, it is made clear that the present petition stands dismissed as withdrawn on behalf of Mudassir and Toshif.

(KARAMJIT SINGH)
JUDGE

28.11.2024

Priyanka Thakur

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No