

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56689-2023

Subhash

.....Petitioner

Vs.

State of Haryana

.....Respondent

Reserved On.: 16.02.2024

Pronounced On: 19.02.2024

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Kuldeep Singh Siwach, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

The petitioner prays for his release on regular bail, by way of present petition filed under Section 439 Cr.P.C, in case FIR No.0141 dated 27.05.2023 registered under Sections 324, 341 of the IPC (Section 326 of the IPC added later on) registered at Police Station Bhattu Kalan, District Fatehabad.

2.1 As per allegations, on 26.05.2023, Rakesh Kumar @ Phinni had gone to the house of his friend Roshan @ Roshi in Dhakka Basti, Bhattu Mandi. After taking dinner, Nikhil nephew of Roshan was going to drop him (Roshan @ Roshi) on motorcycle. As they reached near house of Pappu resident of Dhakka Basti, Bhattu Kalan, petitioner Subhash already present there got the motorcycle stopped and he stabbed a *sua* (ice pick) in the back of Rakesh and fled away. Rakesh raised hue and cry. Roshan reached the spot and after arranging vehicle, took injured Rakesh to CHC Bhattu Kalan, from where

CRM-M-56689-2023

he was referred to MAMC, Agroha. He was later admitted in Sadbhawna Hospital, Fatehabad, where after conducting surgery, the ice pick was removed from his waist. On the statement given by Rakesh to the police on 27.05.2023, initially FIR under Sections 324 & 341 of the IPC was registered. Based upon the opinion of concerned doctor, Section 326 of the IPC was later on added.

2.2 During investigation, petitioner Subhash was arrested on 12.06.2023, who suffered disclosure statement admitting his involvement in the crime. After completion of investigation, final report under Section 173 Cr.P.C. was filed in the Court of learned Area Magistrate.

2.3 Status report filed by the respondent- State would reveal that charges have already been framed. Petitioner has also placed on record copies of statements of three of the prosecution witnesses examined by the prosecution so far.

3. It is contended by learned counsel that petitioner has been falsely implicated; that all the three material witnesses of the prosecution including injured Rakesh have already been examined; that opinion regarding grievous injury invoking Section 326 of the IPC was taken from a private hospital instead of Board of Doctors and that credibility of that opinion is doubtful. Learned counsel further contends that petitioner is in custody for the last more than 08 months; that case is triable by Magistrate and that trial is likely to take long time to conclude and so, in all these circumstances, he be allowed bail.

4. Opposing the bail petition, learned State counsel contends that injured Rakesh as well as eye-witness Nikhil besides Roshan have supported the prosecution case during trial. By pointing out towards the gravity of the

CRM-M-56689-2023

offence, learned State counsel prays for dismissal of the petition.

5. I have considered submissions of both the sides and have perused the record carefully.

6. Injured was initially taken to CHC Bhattu Kalan, from where he referred to MAMC Agroha. Perusal of the Medico Legal Report prepared at Maharaja Aggarsain Medical College (MAMC), Agroha would reveal that one injury was found on the person of Roshan, which was a penetrating wound of 0.2 x 0.2 cm. The ice pick was intact at the site of the injury in upper back left side. The ice pick was later on removed at Sadbhawna Hospital, Fatehabad, where complainant was taken from MAMC.

7. Thus, it is a single injury case. Though the injury has been opined by the doctor to be grievous in nature but there was no fracture. Besides, all the three material witnesses including injured Rakesh have already been examined. Petitioner is in custody for the last 08 months and 02 days with no criminal antecedents as per the custody certificate place on record. Case is triable by Magistrate. Trial may take long time to conclude.

8. Having regard to the above facts and circumstances, but without commenting anything further on the merits of the case, this petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

(DEEPAK GUPTA)
JUDGE

February 19, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No