

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-56773-2023

Date of Decision:-04.01.2024

Mandeep Singh @ Gora.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Isha Goyal, Advocate for the Petitioner.

Ms. Ramta K. Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0045 dated 03.04.2023 under Sections 307, 323, 148, 149 IPC registered at Police Station Lopoke, District Amritsar Rural.

2. The present FIR came to be registered at the instance of Billa Singh who stated that on 31.03.2023 at about 7.30 pm in the evening when he along with his brother Vijay Singh reached near Husan Palace, Chogawan, then Sabu armed with *datar*, Gora (petitioner) armed with *datar*, Gursewak Singh armed with *kahi*, Rajbir @ Kumba armed with *daang*, Bhalo armed with *baseball bat*, Harjit @ Billa armed with *datar*, Sahib Singh armed with *baseball bat* surrounded them. Gora raised a *lalkara* that they (complainant party) were taught a lesson. Then Sabu and Gora gave *datar* blows upon Vijay Singh with a intention to kill him which struck him

on the upper side of his right and left ear and in between his head. When his brother fell down, Gursewak Singh, Rajbir Singh @ Kumbe, Bhola and Vishal Doni gave him (Vijay) beatings with their respective weapons on his hands and shoulders. Harjit Singh Billa and Sahib Singh kept on abusing. On his (complainant's) raising an alarm Sandeep Singh and Amandeep Singh came to the spot after which the accused fled away. They took Vijay to the hospital at Lopoke from where he was referred to Guru Nanak Dev Hospital, Amritsar.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. However, taking the allegations to be correct all the injuries upon the person of injured Vijay Singh were blunt in nature and two of them had been declared simple. The incident occurred on 31.03.2023, though the FIR came to be registered on 3.4.2023 which creates a doubt in the prosecution case. During the course of instant proceedings a medical board had been constituted to examine Vijay Singh to ascertain as to whether he had suffered any permanent impairment but Vijay Singh refused to appear before the Medical Board. Therefore, the Board furnished its report by relying on the medical reports of Vijay Singh to the effect that the injured Vijay Singh did not suffer any impairment because of injuries and stood discharged in a satisfactory condition. As the petitioner was in custody since 28.06.2023, the investigation stood completed but none of the 20 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and, therefore, his further incarceration was not required, more so when he had clean antecedents.

4. The Counsel for the State on the other hand contends that serious allegations have been levelled against the petitioner and his co-

accused because of which he was not entitled to the concession as prayed for. She however, concedes that the injured Vijay Singh chose not to appear before the Medical Board constituted on the directions of this Court as also the fact that as per the opinion of the board, the injured Vijay Singh had not suffered any permanent impairment. She also concedes that the petitioner is a first time offender, in custody since 28.06.2023 and that none of the 20 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. When this case came up for hearing on 16.11.2023 the following order was passed:-

“ It has been brought to the notice of this Court by learned State Counsel on instructions from ASI Gurdeep Singh, P.S. Lopoke, Amritsar Rural that the injured Vijay son of Sh. Bir Singh has suffered some permanent impairment on account of the injuries received in the occurrence. The Civil Surgeon concerned is directed to constitute a Board of Doctors to examine the injured and file a report in that regard on or before the next date of hearing.

List on 14.12.2023.”

7. In deference to the aforementioned order a Medical Board was constituted but injured Vijay Singh did not appear before it for his examination. Therefore, a letter dated 03.01.2024 was sent by the Senior Medical Officer, Civil Hospital, Amritsar to Civil Surgeon, Amritsar to the effect that though the injured had not appeared before the Medical Board, as per the medical reports examined by the board, the injured had not been found to have suffered any permanent impairment. The copy of the said communication along with the opinion is attached as Mark-A.

8. Admittedly, the petitioner is a first time offender, in custody since 28.06.2023 and none of 20 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, his further incarceration is not required.
9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Mandeep Singh @ Gora son of Sh. Fuman 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.
10. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.
11. If the petitioner or any of 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 Court.
12. 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 trial without sufficient cause.
13. The petition stands disposed of.

(JASJIT SINGH BEDI)

JUDGE

January 04, 2023

Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No