

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

CRM-M-62123-2023

Date of Decision:-07.02.2024

Sunpreet Singh @ Sunny.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Jashandeep Singh Sandhu, 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.128 dated 31.12.2022 under Sections 392, 397, 323, 451 and 34 IPC and Sections 307, 412 IPC added later on registered at Police Station Tapa Mandi, District Barnala.

2. The FIR came to be registered at the instance of Sandeep Kumar son of Sh. Dev Raj which reads as under:-

“ Copy of Statement, "Statement of Sandeep Kumar son of Dev Raj, resident of House Number 408, Ward No. 08, Model Town, Tappa City, District Barnala, aged about 42 years, Mobile Number 94171- 23670". It is stated that I am resident of the above said address and I am running goldsmith shop under the name "Verma Jeweler" situated on school road, near Street No. 07, City Tappa. In front of my shop, there is also goldsmith shop under the name of "Amandeep Jeweler" of my cousin Amandeep Singh alias Kumar son of Mewa Singh, resident of Model Town, Tappa. Yesterday on dated 30/12/2022 at about 11-12 time, one unknown

person came budget. He replied that our budget is of about two lakh rupees. I asked him from where are you? He replied that I am from Tajo. He told me that they require one bracelet, chain, ring and asked for designs, to whom I shown many designs. He took photographs etc. in his mobile phone. He was saying to me that we will pay some money through googlepay, some will be paid in cash and went away. Then after half an hour he again came and said some other designs be also shown to me. I showed some other designs also and after seeing designs he selected three items, one bracelet, chain, ring and he also got prepared budget of these items which came to Rs. 1 lakh 87 thousand. Then he clicked photograph of Q.R. Code which is written in my shop and said that he will check it by paying Rs. 10 in it and went away by saying to me to prepare the items, we will come in the evening, will pay the money and will take the material. Thereafter, in the evening at about 5.30 p.m. two unknown persons came on motor cycle who parked their motor cycle in the street. Both persons were wearing mufflers on the neck and head but faces were not covered out of whom one person was carrying kit bag on the shoulder and both of them sat on chair and bench placed at counter in front of me and they asked me whether the material is ready? Who were previously saying that some amount will be paid in cash and remaining will be paid by googlepay but now they said that whole of the amount will be paid by googlepay. You show us our material. Then some suspicion was created in my mind that earlier they were saying that some amount will be paid in cash but now both have come and are saying that whole of the payment will be paid through googlepay. After showing them the material turn by turn I was putting the same in drawer. In the meantime the person who was carrying kit, removed his kit from the shoulders and put it along the counter and the second person time and again was saying on mobile to someone that in my account the amount is less hence you credit in my account a sum of Rs. 30,000/- through googlepay. After sometime he again switched on his mobile and said Rs. 40,000/- be credited in my account through googlepay. In the last I weighed the bracelet on weighing machine, I put two items chain and ring in my drawer and bracelet was still lying on the weighing machine and I was writing the weight of ornaments and price on a slip. In the meanwhile out of the two unknown

persons one person made many attacks upon left side of my head with some hammer like instrument, I fell down. Second person took my gold bracelet weighing about 2 tolas which was lying on weighing machine, gave me beatings and both of them fled away from the spot on their motor cycles whome I can recognize if produced in front of me. Thereafter I stood up, came out of the shop and raised alarm and my brother Amandeep Kumar son of Mewa Singh resident of Tappa came there. After hearing uproar, people assembled in front of my shop. Then after making arrangement of vehicle by Harwinder Singh @ Bunty, son of Sukhdev Singh, from the neighbour shop, both of them ie Aman alias Kumar and Harwinder Bunty got me admitted in SDH Tappa in injured condition for my treatment from where I was referred to DMC Hospital Ludhiana for treatment where at present I am under treatment. Today statement is dictated to you. Strict legal action be taken against those two unknown persons who entered in my shop. inflicted injuries to me with intention to kill me, plundered my gold so justice be given to me. Today statement is dictated to you, read over, heard and is correct. Sd/- Sandeep Kumar.”

3. During the course of investigation the statements under Section 161 Cr.PC of Harminder Singh and Jagjit Singh were recorded, on the basis of which the accused were nominated vide DDR No.21 dated 01.01.2023.

As 05 continuous blows of a hammer like weapon with an intent to kill the complainant had been inflicted by the accused, the offence was enhanced to Section 307 IPC.

Petitioner-Sunpreet Singh @ Sunny got recovered a silver chain and gold kara. Co-accused Manpreet Singh @ Mani got recovered a hammer and motor cycle bearing registration number PB-65-U-3588.

The opinion of the medical board was obtained as per which the nature of the injury on the head leading to a fracture of the parietal and temporal Bone which was managed conservatively was found to be grievous

in nature.

4. The Counsel for the petitioner contends that he has been falsely implicated in the present case. The prosecution case is unbelievable. No independent witness had been examined in support of the prosecution version. There was an unexplained delay in the registration of the FIR which is an outcome of consultations. As the petitioner was first time offender, in custody since 10.01.2023 and none of the 26 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and, therefore, the petitioner was entitled to the concession of bail.

4. The Counsel for the State has filed a reply by way of affidavit dated 07.02.2024 of Mr. Manavjit Singh Sidhu, DSP Sub Division Tapa, District Barnala in court today which is taken on record. While referring to the said reply the counsel for the State contends that multiple injuries had been caused on the head of the injured with a hammer like object causing grievous injuries. On account of the intent of the accused, the offence was enhanced to one under Section 307 IPC. The manner in which the occurrence took place along with the severity of the injuries suffered by the complainant did not entitle the petitioner to the grant of bail. She however concedes that the petitioner is a first time offender, in custody since 10.01.2023 and that none of the 26 prosecution witnesses had been examined so far.

5. I have heard learned Counsel for both the parties at length.

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 10.01.2023 and none of the 26 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 the further incarceration of the petitioner is not required.

8. Thus, without commenting on the merits of the case, the petitioner-**Sunpreet Singh @ Sunny** son of Sh. Gurwinder Singh is ordered to be released on bail subject to their satisfaction of learned CJM/Duty Magistrate, concerned.

9. 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 present case.

10. The petitioner (or anyone on their behalf) shall prepare an FDR in the sum of Rs.1,00,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioner from the Trial without sufficient cause.

11. The Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 07, 2023
Vinay

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