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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.59007 of 2024 (O&M)
Date of Decision: 03.12.2024

Barkat Ali ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ajay Pal Singh Rehan, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
81	11.06.2024	Dinanagar, District Gurdaspur	452, 324, 323, 506, 120-B, 148 and 149 of IPC (326, 307, 201 and 450 of IPC added later on)

2. As per the prosecution case, on 07.06.2024, the complainant along with his family members was sleeping in the courtyard of his house when at about 2:15 AM, he woke up on hearing sounds of dog barking in

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his house. He saw the accused Kakku, the petitioner-Barkat Ali and Sawaru to be present in the courtyard of his house along with three unknown youths. All of them were armed with weapons. On seeing him, the accused Kakku made an exhortation to catch him and teach him a lesson for not giving possession of plot to them; and thereafter, opened an assault upon him with a *datar* which he was carrying in his hands. The petitioner Barkat Ali and co-accused Sawaru and the other unknown assailants also caused injuries to him with Axe, *datar*, iron rods and hand sticks. The complainant and his family members raised rescue alarm and thereafter, they fled away. The injured was rushed to the hospital. As per the medico legal report, he had sustained six simple injuries as well as grievous injuries. The complainant in his statement recorded before the police disclosed that the cause of grudge was that his father was allotted some government land in Chhoti Chamloi, Himachal Pradesh and the co-accused Karamdeen and Mureed Ali wanted to take possession of the said land. They had extended threats to the family of the complainant in the past. The complainant alleged that the co-accused Karamdeen and Mureed Ali by hatching a conspiracy had sent the petitioner, accused Kakku and others to kill him. After registration of FIR, investigation proceedings have been initiated. Subsequently, on the basis of medical opinion, offences under Section 326 and 307 of IPC had been added. The petitioner had been arrested on 25.08.2024. Investigation has since been completed.

3. It is argued by learned counsel for the petitioner that the he has been falsely implicated in this case. There is inordinate and unexplained

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delay in lodging of the FIR which has created a dent over the truthfulness of the story narrated therein. Investigation has since been completed. Challan stands presented. Custodial interrogation of the petitioner is not required. The trial is likely to take time. The co-accused whose case is on similar footing have also been extended benefit of pre arrest bail. On parity, he too deserves to be released on bail. Accordingly, it is urged that the petition deserves to be allowed.

4. Per contra, learned State counsel has argued that the allegations against the petitioner are serious in nature as he in conspiracy with the co-accused had assaulted the complainant thereby causing him serious injuries one of which has been declared to be dangerous to life. There are chances of petitioner's intimidating the witnesses or committing similar offences if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

6. The petitioner is alleged to have hatched a conspiracy with the co-accused and in pursuance thereof is alleged to have made an attempt to kill the complainant by causing injury with sharp edged weapon on his person. He is in custody since 25.08.2024. Investigation has since been completed. Trial is likely to take time. The petitioner does not have any criminal antecedents. There is no basis for the contention that he may commit similar offences or may intimidate the witnesses. No useful purpose would be served by keeping the petitioner in custody any more. It is well

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settled proposition of law that the bail is the rule and jail is an exception. Keeping in view the discussion as made above but without meaning to make any comment on the merits of the case, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

7. Miscellaneous application(s), if any, also stand disposed of.

03.12.2024
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(MANISHA BATRA)
JUDGE

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