

2024:PHHC:165287



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-59570 of 2024
Date of Decision: 11.12.2024

Mukesh @ Tau ...Petitioner
Versus
State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Akshit Mehta, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

Mr. Arpandeeep Narula, Advocate, for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 with a prayer to grant a regular bail in case FIR No.89 dated 09.03.2023 registered under Sections 148, 149, 323, 325, 307, 341 and 506 IPC (Section 302 added and Section 325 deleted) at Police Station Ellenabad, District Sirsa.
2. Learned counsel for the petitioner contends that the petitioner has been wrongly named in the FIR as he had not participated in the occurrence. As per the case of the prosecution, the petitioner was allegedly armed with a *lathi* and had given kick and fist

blows to Gurmeet Singh, since deceased. Learned counsel for the petitioner has placed reliance on the MLR (Annexure P-3) of Gurmeet Singh to contend that the injuries, which were allegedly caused by the petitioner do not find mention in the MLR of Gurmeet Singh. He further contends that the complainant has already given an affidavit (Annexure P-6), whereby, it was stated that the petitioner had not participated in the occurrence and his name was mentioned only due to some misunderstanding. Still further, the statement of Gurpal Singh complainant has already been recorded as PW1 and he did not name the petitioner as one of the assailants, in his statement before the trial Court. The petitioner was arrested in the present case on 09.03.2023 and is in custody for the last about 01 year and 09 months. Since, the material witnesses have already been examined and further custody of the petitioner will not serve any purpose.

3. A short reply by way of an affidavit of the Deputy Superintendent of Police, Ellenabad, Sirsa has been filed on behalf of the respondent-State and the same is taken on record.

4. Learned State counsel assisted by the learned counsel for the complainant have vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that there are serious allegations against the petitioner and the petitioner is not entitled for the concession of regular bail.

5. I have heard learned counsel for the parties and perused the record.

6. It is apparent from the FIR that the petitioner was initially named and has been attributed kick and fist blows to Gurmeet Singh. As per the FIR, he had allegedly caused injuries with kicks and fists to Gurmeet Singh, since deceased. However, while appearing as PW1 Gural Singh complainant has not named the petitioner as one of the assailants. Moreover, the petitioner is in custody since one year and nine months and no purpose will be served by keeping him behind the bars.

7. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

11.12.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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