232 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-64861-2023
Date of decision : 09.01.2024

Sarfaraj @ Penna ..... Petitioner

versus

State of Haryana ..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

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Present :- Mr. Yashveer Kharb, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

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PANKAJ JAIN, J. (ORAL)

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1. Prayer in the petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.22 dated 10.01.2023 registered under Sections 148, 149, 307 and 506 of IPC at Police Station I.N.D Sector-29, Panipat, District Panipat.

2. As per the contents of the FIR, it has been alleged as under:-

> "*To, Respected SHO Police Station Incharge, Krishanpura Panipat. It is requested that I Vijay s/o Lehna Singh Lathwal is resident of Kishanpura, Panipat. On 07.01.2023 at around 6.00 PM I was going to Deepak barbar's shop and when I reached near Radhakrishan Dharamshala then my known Pardeep Bakrewala alongwith his friends Sarfaraz @ Penna Arjun, Karan, Kaku who were having Rods, Gandasi, Pardeep asked for 5000-7000 rupees then I told him ok you can borrow then Pardeep said to me that you are so rich and Sarfaraz put his hand in my pocket and when I asked him not to do so then Sarfaraz with rod in*

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his hand hit my back and Pardeep Karan, Kaku caught hold of me and Arjun hit on my head with Gandasi to kill me and thrown me down and beaten me with leg and fist blows and people gathered there and the accused ran away after threatening me that I will be killed. My family members took me to the hospital for treatment and my treatment is going on from Sardana Hospital. Appropriate legal action be taken against the accused."

3. Custody certificate has been placed on record as per which the petitioner was remained under trial for more than eleven months and seventeen days. Apart from facing trial in the present case, the petitioner is also facing three more FIRs wherein he has earned bail.

4. Learned counsel for the petitioner has submits that allegations against the petitioner remained uncorroborated as there is no injury on the back of the victim. The injury is on the head which has been attributed to one Arjun.

5. Learned counsel for the petitioner further relied upon the orders passed by the Co-ordinate Bench of this Court in *CRM-M-43151-2023* dated 31.10.2023, *CRM-M-56287-2023* dated 16.11.2023 and *CRM-M-58908-2023* dated 29.11.2023, wherein all the three accused namely Karan, Prince @ Kaku and Pardeep have been granted concession of regular bail. He further submits that the challan already stands presented and thus there cannot be any apprehension that the petitioner would tamper with the evidence.

6. Per contra, learned State counsel opposes the bail plea claiming that the petitioner is a habitual offender. However, he does not dispute that so far as the present case is concerned, though in the FIR it has been alleged that the petitioner inflicted injury on the body of the victim

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whereas there is no such injury and the main injury constituting under Section 307 IPC is attributed to one Arjun.

7. Keeping in view the incarceration already suffered by the petitioner and the fact that the trial is at a nascent stage and is not likely to conclude in the near future, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

9. Pending applications, if any, shall stand disposed off.

(PANKAJ JAIN)
JUDGE

09.01.2024
spn

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