

...PETITIONER

...RESPONDENT

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

2. The present FIR was lodged on the basis of statement of complainant-Rohit Salrotra son of Tarsem Singh on the allegations that he was doing private job in Pepsi Factory. On 24.06.2023 at about 04:00 or 05.:00 PM, he and his brother Sahil were coming towards Civil Hospital Pathankot in a private Auto to bring the medicine of their mother Anita. When they reached in front of the main gate of Civil Hospital Pathankot, then his brother Sahil was just to come out from the Auto, then they saw that petitioner-Love alongwith co-accused Sukhi and Rahul armed with weapons were standing outside the gate. Petitioner gave a lalkara to catch hold him and teach a lesson for fight. On hearing the alarm, his brother Sahil told him that they should run from there as the petitioner alongwith co-accused wanted to kill them. They told the Auto driver to run the Auto and on their request, the Auto driver ran the Auto. The petitioner alongwith co-accused followed them and tried to kill them, but they

managed to save themselves. When they reached near Bedi Petrol Pump, then

on the opposite side again, petitioner-Love son of Balbir Kumar, resident of Mohalla Bajuan, Khanpur alongwith co-accused Rahul son of Santosh Kumar, resident of Manwal and Sukhi son of Ishwar Dass resident of Mission Road, Pathankot were standing armed with sharp edge weapons and they stopped their way. Then petitioner took him out of the Auto and gave a blow of Datar upon him, which struck on the middle of his head. Co-accused Rahul also gave blow of handle of Datar upon him, which struck on his face. Co-accused Sukhi also gave blow of handle of spade upon him which struck on the wrist of his left hand. Petitioner again gave blow of Datar upon him which struck on his left foot and fell on the road. Co-accused Rahul again gave the blow of Datar which struck on his nose. When his brother Sahil came forward to rescue him, co-accused Sukhi and petitioner gave reverse blows of Datar which struck on the neck of his brother Sahil due to which, he also fell on the road. 4-5 unidentified persons were also with them. When they raised alarm, then all the aforesaid assailants ran away from the spot along with their respective weapons on their motorcycles. The attack was made by the aforesaid assailants with intention to kill them. On the basis of aforesaid statement of the complainant, the present FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the FIR (supra) was registered after a delay of 06 days and it is a case of version and cross-version. The complainant party has also been challaned by the investigating agency in the cross-version case. The invocation of Section 307 of IPC would be a debatable point in the absence of any specific opinion by the Medical Officer. The petitioner is behind the bars since 04.07.2023 and the investigation of the present case is complete.

4. Per contra, learned State counsel, on instructions from ASI

Surinder Pal, opposes the grant of regular bail to the petitioner on the ground

that the petitioner is the main accused and he is alleged to have caused injury on the head of the complainant. As such, offence under Section 307 of IPC is clearly established and the petitioner does not deserve the concession of regular bail.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 04.07.2023. The investigating agency has already concluded the investigation and submitted the final report under Section 173 Cr.P.C. in the version and cross-version cases before the concerned jurisdictional Court. Trial of the case has not made any progress yet as out of 15 witnesses cited by the prosecution, none has been examined so far. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the petitioner. Keeping the petitioner in further detention, without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Love @ Love Kumar is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

January 11, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

- | | | |
|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |