

257

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-23730-2024 (O&M)
Date of Decision:- 11.03.2025

ROHAN BAINS @ ASHOK KUMAR

Versus

....Petitioner(s)

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Sumit Dua, Advocate for the petitioner.

Mr. Ankit Grewal, DAG Punjab.

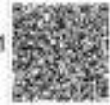
Mr. N.S. Lucky, Advocate for the complainant.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 CrPC for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
165	21.06.2023	302, 148, 149 IPC; (216 and 120-B IPC added later on)	Phillaur, District Jalandhar

2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that although the petitioner is alleged to be armed with datar at the time of alleged occurrence but no injury has been attributed to him. He

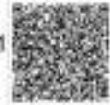


further submits that challan has been presented in Court and during the course of trial, the complainant as well as eye-witness vide their testimonies Annexures P-5 and P-6 respectively, have not disputed the fact that no injury was caused by the petitioner. He submits that the conclusion of trial will take sufficient long time, thus, prays for grant of concession of bail to the petitioner.

3. *Per contra*, learned State counsel assisted by learned counsel for the complainant, while referring to the reply filed by the State has opposed the petition on the ground that the petitioner had actively participated in the crime being armed with a datar. He submits that the petitioner was a member of unlawful assembly wherein the co-accused had committed the murder of the deceased, as such, prays for dismissal of the petition.

4. Heard learned counsel for the parties and perused the record.

5. After considering the rival contentions and perusing the record, it is observed that as per the case of prosecution registered on the complaint of Vikas Kumar, there was a gathering in the school ground on 20.06.2023 on account of a fair (*Mela*). Gagandeep Singh, a relative of the complainant was standing along with the complainant then co-accused Balvir @ Modi came there and gave a slap on Gagandeep Singh, leading to an altercation. Thereafter, while the complainant along with Kulvir, Balvir, Malook and Hardeep were talking to each other, then at about 01:30 AM, co-accused Balvir @ Modi armed with sword, the petitioner armed with datar, Narinder armed with khanda, Naresh armed with rod, Manni armed with sword,



Jatinder armed with khanda and two other unknown persons armed with khanda came there and on the lalkara being raised, Narinder gave khanda blow on Gagandeep, which hit him on his neck. Balvir @ Modi gave kirpan blow, which hit on the left elbow, Jatinder gave khanda blow which hit on his abdomen, Mani gave kirpan blow which hit on his neck. On the alarm being raised, the assailants ran away from the spot and the injured was shifted to hospital, where he succumbed to the injuries. The motive as per the complainant was a dispute between Balvir @ Modi and Gagandeep and due to this grudge the occurrence took place.

6. From the perusal of the record, it transpires that although the petitioner is alleged to have been armed with datar at the time of alleged occurrence but admittedly, no injury has been attributed to him. He is in custody since 21.06.2023 and challan has already been presented in Court, wherein out of 32 witnesses cited by the prosecution only 02 have been examined till date. The petitioner is not having any criminal antecedents and the criminal liability, if any, of the petitioner, could only be determined after the conclusion of trial, which may take sufficient long time. In the circumstances, no purpose would be served by detaining the petitioner any longer.

7. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Judge on Duty/Duty Magistrate concerned, if not required in any other case; undertaking to regularly appear on each and



every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

9. Pending miscellaneous application(s), if any, stands disposed of.

(SANJIV BERRY)
JUDGE

11.03.2025

S.Sharma(syr)

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No