



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 38733-2024
Date of decision:-21.01.2025

KHUBI RAM
... Petitioner
Versus
STATE OF HARYANA
... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Balraj Gujjar, Advocate, for the petitioner.
Mr. Ramender Singh Chauhan, AAG, Haryana.
Ms. Pallavi Babbar, Advocate for the complainant.

SANJIV BERRY, J.(ORAL)

Learned State counsel has filed custody certificate dated 20.01.2025, the same is taken on record, copy thereof, has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS) for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
417	20.10.2023	147, 148, 149, 323, 325, 307, 427, 506 & 201 IPC	Ballabgarh-Sadar, District Faridabad

3. Arguments heard.

4. 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 in the FIR, general allegations have been levelled against the



petitioner and other co-accused of having attacked the complainant with lathis, sticks as well as kick blows and no specific overt act is attributed to the petitioner. However, in the supplementary statement of the complainant recorded after lapse of more than one month, improvement in the statement has been made by attributing the petitioner to have caused injury on the left side of the chest of the complainant with some sharp edged weapon, which is manifestly wrong. He submits that as per the medical record there is no injury caused with sharp edged weapon and the weapon allegedly is blunt. He contends that similarly situated co-accused Vikram has already been granted concession of bail on 18.04.2024 (Annexure P-4). The petitioner is in custody since 18.11.2023, trial of the case is going on at a slow pace and even the complainant-injured while appearing in the witness box as PW-2 who had alleged the injuries to be caused with lathis and dandas, has later, after being declared hostile and being allowed to be cross-examined by the public prosecutor claimed the injuries being inflicted by the petitioner with a weapon that was 'sua' meant for breaking ice. He contends that during his cross-examination the petitioner has clarified that the weapon allegedly used was a botkin(sua) meant for breaking ice and was not a screw driver, whereas the police allegedly recovered a screw driver (electric tester) from the petitioner which itself shatters the version of the prosecution. He has placed on record the copy of his testimony recorded before the learned trial Court. Hence he prays for grant of regular bail to the petitioner.

5. *Per Contra*, learned State counsel assisted by learned counsel for the complainant has assailed these arguments by submitting that as per the version of the prosecution there are specific allegations against the petitioner of having caused injury on the person of the complainant with the



help of 'sua' which has been declared as dangerous to life by the Doctor and this fact has been categorically deposed by the complainant while appearing in the witness box. They argued that since the injury caused by the petitioner has been declared to be dangerous to life, as such, petitioner does not deserve concession of bail. Hence, prayed for dismissal of the bail petition.

6. After going through the respective submissions and perusing the record, it transpires that FIR was registered on information received from the hospital regarding the injured complainant Madan Singh being admitted there and on the basis of his statement, the FIR was registered, wherein he had stated that about 4-5 days prior to the above occurrence there was an altercation between wife of the petitioner and Pooja, wife of accused Vikram and on 19.10.2023 at about 9:00 pm while he and his wife were present in the house then Vikram alongwith his brother-in-law Khubi Ram and 6-7 other persons came there and started pelting brick-bats towards the window and door of his house. In the meanwhile, cousin of the complainant Hari Ram came there and on seeing him, the complainant came out of his house. Further, the assailants who were armed with lathis and dandas attacked the complainant besides giving fist blows, and later he was shifted to the hospital. It is not disputed during course of arguments that in the original version given by the complainant the assailants are alleged to have been armed with lathis and dandas and no specific overt act is attributed to the petitioner, however, in the supplementary statement recorded after about one month thereof, he had attributed the petitioner to have inflicted injuries on his person with screw driver(electric tester). While appearing in the witness box, he has claimed weapon to be a 'sua' meant for breaking ice, that too, after being declared hostile and cross examination being done by learned Public



Prosecutor. It is evident from the report of the medical practitioner dated 16.11.2023 annexed with the reply that the said injury No.2 is dangerous to life caused with (blunt) weapon, even the MLR stated the nature of weapon to be blunt for this injury. The material witnesses of the occurrence including the complainant has already been examined during the trial and conclusion of trial will take sufficient long time.

7. In these circumstances, without commenting on the merits of the case, it is observed that no purpose would be served by keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court 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.

(SANJIV BERRY)
JUDGE

21.01.2025

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