

2025:PHHC:000697



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

(222)

**CRM-M-38852-2024
Decided on : 07.01.2025**

Aslam Khan

.....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM : HON'BLE MRS.JUSTICE MANJARI NEHRU KAUL

Present: Mr.Aminder Singh, Advocate for the petitioner (s).

Mr.Navdeep Singh, DAG, Punjab
Assisted by SI-Harminder Singh.

MANJARI NEHRU KAUL, J. (Oral)

1. Prayer in the instant petition is for grant of regular bail to the petitioner under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS) in case FIR No.54 dated 24.07.2023 under Sections 308, 325, 323, 34 IPC registered at Police Station Khanauri, District Sangrur.

2. Learned Counsel for the petitioner submits that the petitioner who has been falsely implicated in the present case, has now been in custody since 26.07.2023 and there is no possibility of the trial concluding in the near future as it is a matter of record that the prosecution witnesses including the complainant, for reasons best known to them, have not been appearing before the Trial Court to get their evidence recorded. In support of the same, Learned Counsel has placed on record the zimni orders of the Trial Court from

3. It has also been argued by Learned Counsel that after PW-1 (complainant), who had been partly examined, an application under Section 319 Cr.P.C. was moved which was subsequently dismissed in July, 2024 and same had also led to the delay in conclusion of the trial. Learned Counsel has, therefore, prayed that in the afore-mentioned facts and circumstances, further incarceration of the petitioner would serve no useful purpose for which he deserves to be extended the concession of bail.

4. Per contra, Learned State Counsel, while opposing the submissions made by Learned Counsel for the petitioner, has reiterated the allegations levelled in the FIR in question which has been annexed as Annexure A-1 and stands reproduced herein under:

“Statement of Vikas son of Rafik son of Phooldin resident of Gulari P.S. Khanauri District Sangrur age about 21 years, Mobile No.9518842599, stated that I am resident of the above said address. I am studying B.A. at University College Moonak. One of our family members who is related to me as my grandfather namely Dhola is having one shop near our house and it is given on rent by my grandfather Dhola to Deepak resident of Dhaba Tek Singh and the said Deepak is running electrical goods shop there. On 22.07.2023 my uncle Naseeb Khan son of Phooldin resident of Guladi went to Deepak’s shop for taking chenni (iron tool) but Deepak was not present in the shop. My uncle after asking Deepak on phone took chenni (iron tool) from his shop. At around 5:30 PM my uncle Naseeb Khan after doing work with chenni (iron tool) went to Deepak’s shop for returning the chenni (iron tool) and my uncle Naseeb Khan put the chenni (iron tool) in the shop. At that time, I was also standing there and Shaukeen Khan and Aslam Khan alias Kala sons of Dhola residents of Guladi were also sitting in the shop and both of them started abusing my uncle and said that why have you entered our shop and do not enter the shop again. Then Shaukeen Khan and

***Aslam Khan** alias Kala both while abusing came outside the shop and started scuffling with my uncle. Then Shaukeen Khan caught hold of my uncle Naseeb Khan and **Aslam Khan** alias Kala took chenni (iron tool) from the shop and gave two blows from the left side on the head of my uncle Naseeb Khan and after getting injured my uncle Naseeb Khan fell down and while my uncle Naseeb Khan was lying on the ground **Aslam Khan** alias Kala again gave chenni (iron tool) blow on the back side of his head and both of them gave him much beatings. When I tried to rescue my uncle from them, then both of them ran away from the spot with chenni (iron tool). Then my father Rafeek also reached at the spot who then arranged the vehicle and got admitted my uncle Naseeb Khan at Civil Hospital Tohana and doctor sahib got my uncle referred to Maharaja Agarsen Medical College Agroha for his treatment, where we got admitted my uncle Naseeb Khan at Maharaja Agarsen Medical College Agroha. Then the doctor sahib due to grievous injuries referred my uncle Naseeb Khan to P.G.I. Rohtak. Then we got admitted my uncle Naseeb Khan to Sarvodya Hospital at Hisar where his treatment is going on. My uncle Naseeb Khan is unable to speak right now because of injuries. Reason behind enmity is that my Uncle Naseen Khan and Dhola share common wall between their house and regarding that wall earlier some fight had happened between both the parties and compromise was effected by panchayat. Due to that grudge Shaukeen Khan and **Aslam Khan** alias Kala inflicted injuries upon my uncle Naseeb Khan. I got my statement recorded to you which I have heard and is true and correct. Legal action may be taken against Shaukeen Khan and **Aslam Khan** alias Kala. Sd/- Vikas xxxxxx”*

5. It has been asserted by Learned State Counsel that the petitioner was not only named in the FIR in question but there were specific attributions that he had inflicted injuries with iron tool on the head of uncle of

the complainant after physically assaulting him. However, Learned State Counsel, on instructions from SI-Harminder Singh, has not been able to dispute the custody period of the petitioner, and that the prosecution witnesses including the material witnesses have continuously been absenting themselves before the Trial Court despite the issuance of bailable/non-bailable warrants to secure their presence.

6. I have heard Learned Counsel for the parties and perused the relevant record. Challan in the present case was presented way-back on 12.12.2023, followed by framing of charges on 01.02.2024. Till date, only 4 prosecution witnesses out of 17 have been examined. The material witnesses including the complainant have been repeatedly absenting themselves before the Trial Court. Hence there is no likelihood of the trial concluding in the near future.

7. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

8. Accordingly, the instant petition is allowed and the petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

January 7, 2025
Sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No