

2025.PHHC.021806



241.

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

CRM-M-61539-2024

Date of decision: 14.02.2025

Rahul Bhatti @ Bholu

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Samay Singh Sandhawalia, Advocate, for the petitioner
(through Video Conferencing).

Mr. Shiva Khurmi, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Prayer in this petition filed under Section 483 of BNSS, 2023, is for grant of regular bail to the petitioner in FIR No.59, dated 28.03.2024, under Sections 323, 324, 458, 341, 307, 506, 148, 149 of IPC (Sections 120-B, 379-B, 326 of IPC added lateron), registered at Police Station Rupnagar City, District Rupnagar.

Learned counsel for the petitioner submits that the petitioner has been in custody since 09.05.2024; no injury attracting the mischief of Section 109 of the BNS has been attributed to the petitioner; rather, such injury has been attributed to co-accused Chandan. It has been contended that although the petitioner is alleged to have inflicted an injury with a *gandasi* on the head of injured, Amit Sharma, there is no medical corroboration to support this allegation.

It is further submitted that the challan in the present case was presented on 11.07.2024, and charges were framed on 07.08.2024, however, the trial Court has repeatedly adjourned proceedings on at least 10 dates due to the non-appearance of the injured/complainant, despite the issuance ofailable warrants, non-ailable warrants, and even a proclamation under Section 82 of Cr.P.C. Given these circumstances, it is argued that the petitioner cannot be made to remain in custody indefinitely for no fault of his own, particularly when the trial is likely to be protracted, with 23 prosecution witnesses cited and none examined to-date. It is also pointed out that identically placed co-accused, Chandan and Jatin, have already been granted bail due to the continuous non-appearance of the prosecution witnesses.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed the period of custody of the petitioner or the stage of the trial. It is also not disputed that both material witnesses, Amit Sharma and Rohit Sharma, have failed to appear on at least 10 dates of hearing before the trial Court, despite the issuance of multiple warrants and a proclamation under Section 82 of the Cr.P.C. However, the learned State counsel has reiterated the allegations in the FIR, by asserting that the petitioner was armed with a *gandasi* and inflicted injury on the head of Amit Sharma.

Upon a specific query, the learned State counsel, on instructions, conceded that none of the injuries attributed to the petitioner were opined to be dangerous to life.

Having heard learned counsel for the parties and considering that both material witnesses, including the injured witnesses have persistently failed to appear before the trial Court, it is evident that the trial is unlikely to conclude in the near future. In these circumstances, further incarceration of the petitioner is unwarranted.

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

February 14, 2025
sanjeev

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No