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

(276)

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Date of Decision : 14.01.2025

Ajay Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

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

Mr. Pardeep Bajaj, DAG, Punjab.

Mr. Prashant Bansal, Advocate for the complainant.

KULDEEP TIWARI, J.(ORAL)

1. At the very outset, learned counsel for the petitioner has made an oral request to add Section 326 IPC, alongside Sections 307, 323, 324, 452, 148 and 149 of the IPC, in the details of the FIR, head note, the contents of the petition as well as in the prayer clause of the petition.

2. The oral request made by the learned counsel for the petitioner is hereby accepted. Consequently, Section 326 of the IPC, is added alongside Sections 307, 323, 324, 452, 148 and 149 of the IPC, in the details of the FIR, head note, contents of the petition, and in the prayer clause of the petition. The Registry is directed to make necessary corrections accordingly.

3. Through the instant petition, filed under Section 483 of the BNSS, 2023, the petitioner prays for grant of relief of regular bail in case FIR No.209 dated 06.12.2022 (Annexure P-1), under Sections 307, 323, 324, 326, 452, 148 and 149 of the IPC, registered at Police Station Division 7,



District Jalandhar.

4. The FIR (supra), was registered on the statement of one, Som Nath @ Nanny, son of Babu Ram, resident of Subhana. The relevant extract of the FIR, reads as under :-

“Statement of Som Nath @ Nanny s/o Babu Ram, resident of Subhana, aged about 26 years, M.No. 88375-87466. Stated that I am resident of abovesaid address and doing the work of painting. I have 10 members in the family and there are only two rooms in the house, due to which, it is very difficult to live in the house. Hence, I am residing in one room of Mandeep Singh s/o Gurdial Singh, resident of Village Subhana Jalandhar on rent @ Rs.2000/- per month. There are total 10 rooms in this plot of Mandeep Singh having only one main gate of the same which used to open till 12 in the night. I alongwith my friend Sanju s/o Mangat Ram is residing in this room, who is resident of my village and doing work of making Tattoo and as his family is also big, he is living with me. Yesterday on 05.12.2022, I and Sanju were sitting outside our room at about 9.30 p.m., we heard abusive noise of so many youngsters. On hearing, I came out and saw that Sukhwinder Kumar @ Sukha s/o Ramesh Kumar, resident of Subhana Jalandhar alongwith Rahul Kalyan, Sahil Kalyan @ Kaka, Deepak, Vijay, Ajay, Misha, residents of Subhana Jalandhar and Happy of Pholriwal Jalandhar and few unidentified persons were hurling abuses and they were armed with Khanda, Kirpans and baseballs. When Sukhwinder Kumar @ Sukha saw me outside the gate, then he raised lalkara that today OOWNDIGARH Som Nath be teach a lesson for getting registered illegal case against them. On seeing many persons and weapons in their hands, I got scared and ran towards my room and I and Sanju entered in a rented room and bolted the door from inside. In



meanwhile, above mentioned all the youngsters armed with weapon started pushing door of my room and they also gave datar blow on the door of my room and after breaking down the doors forcibly, all youngsters entered in the room. While coming, Sukhwinder Kumar @ Sukha gave khanda blow on my head with an intention to kill which hit on above my left ear on the head and I fell down on the ground and while I was lying down, Rahul Kalyan gave khanda blow on my head. I raised my left arm to save myself and blow given by Rahul Kalyan hit near my left little finger. In meanwhile, my friend Sanju came forward to save me and above mentioned persons also caused injuries to him and in meantime, on hearing abuses and alarm, neighbors started gathering and on seeing them, above mentioned all the persons ran away from the spot with their respective weapons. While going, they left one Motorcycle bearing registration No. PB08-BP-1453 Mark Honda Twister on the spot. My friend Sanju called my cousin (Uncle's son) telephonically and he after arranging the vehicle, got me admitted at Civil Hospital Jalandhar where doctor prepared my MLR and after giving first aid sent me at home. Due to fear, I did not come to you. Now I alongwith my cousin Harpreet Pal @ Mona came present in the police station. Statement has been recorded and produced MLR No. SSH/548/2022/CHJ dated 05.12.2022 prepared by doctor to you. Motive is this that earlier also on 04.05.2021 Sukhwinder Kumar @ Sukha and his other companions gave beatings to me and its evidence is going on and Sukhwinder Kumar @ Sukha was putting pressure for effecting compromise in that case.”

5. On asking for the relief, learned counsel for the petitioner *inter alia* submits that the petitioner has undergone incarceration of more than 02 months, as on date. He further submits in the FIR (supra), no specific role has



been attributed to the present petitioner. Learned counsel for the petitioner has also placed reliance on Annexure P-2, which is a compromise deed between the complainant, the present petitioner and the other co-accused. Finally, he submits that the matter is still under investigation and therefore, the conclusion of the trial would take long time and useful purpose would be served by keeping the petitioner behind the bars.

6. Notice of motion.

7. Mr. Pardeep Bajaj, DAG, Punjab, waives service and accepts notice on behalf of the respondent-State of Punjab. Mr. Prashant Bansal, Advocate, has caused appearance on behalf of the complainant and accepts notice. He admits the factum of compromise between the parties concerned and has extended no objection, in case, the petitioner is released on regular bail.

8. On the other hand, learned State counsel, on instructions imparted to him by ASI Satinder Kumar, has opposed the relief sought and informs this Court, that final report/chargesheet in the matter is yet to be filed, as the matter is still under investigation.

9. Learned State counsel has also placed on record the custody certificate dated 12.01.2025, today in the Court, which is taken on the record. The custody certificate reflects that the petitioner has undergone incarceration of 02 months and 06 days, as on today.

10. Be that as it may, without commenting on merits of the case and considering the following facts; (i) the matter is still under the investigation, (ii) no specific role has been attributed to the present petitioner, (iii) that the matter has now been compromised between the parties concerned, (iv) the petitioner has suffered incarceration of 02 months and 06 days, as on today,

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and (v) the trial is yet to begin, this Court deems it appropriate to enlarge the petitioner on regular bail. Accordingly, the instant petition is **allowed**.

11. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/trial Court/Duty Magistrate, concerned.

12. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

(KULDEEP TIWARI)
JUDGE

January 14, 2025
Manpreet

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