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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36048-2024 (O&M)
Date of Decision: 27.03.2025

MUNISH ALIAS MUNCHI

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. I.S. Kooner, Advocate for the petitioner.

Mr. Jasjeet Singh Dhaliwal, AAG, Punjab.

None for the complainant.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.13 dated 20.01.2024, registered for the offences punishable under Sections 324, 323, 341, 506, 148 and 149 of IPC (Sections 325 and 326 of IPC added later on) at Police Station Civil Lines, District Patiala.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“This complaint is filed by Shakti son of Harpal Singh, resident of house number 177215, Arjan Nagar, Police Station Kotwali, Patiala Mobile: 8360810177 before HC Jaswant Singh 627/Pat: Police Post Officer, Colony, Patiala for the purpose of registration of the case against Munshi Vijay, brother in law of Jat, Golu, Toti, Kalwa, Jashan and 4-5 other unknown persons which has been received through CT Amandeep Singh 1039/Pat: of police station whose facts are: Stated that I am Shakti son of Harpal Singh, am a Resident of House No. 177215, Arjan Nagar, Police Station, Kotwali, Patiala. I am about 30 years old. Mobile: 8360810177. Stated that I am a resident of the said address and work as an auto driver and does work of buying scrap at home. On December 29, 2023, three persons, namely Kalwa son of unknown, Toti son of unknown and Golu son of unknown stole some goods from my house, about which I was told by his friend Mani over the phone that the said theft has been committed by the abovesaid three persons. Then according to Kalwa's statement on the phone, I

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talked to the said Kalwa in his presence and asked him to hand over to the police, but he admitted that they had done the theft. A young man named Munshi, who is Golu's maternal uncle, came to my house and he took the responsibility to bring the three young men to me and talk about the theft that the young men had done, but for a long time they did not do anything about it. Then on 10.01.2024 at about 12.45 night, I got a phone call on my mobile no. 8360810177 from the mobile no. 8264144189 of the abovesaid Munshi that the three youngsters are with me and you should also reach to him near Moti Bagh Gurudwara to have a talk, upon which I reached the Moti Bagh Gurudwara Sahib along with my brother-in-law Lavish son of Mohit Kumar resident of House No. 10 Block No. 01 Sajjo Colony Patiala and my wife Radhika then the abovesaid Munshi along with Vijay, brother in law of Jatt, Jashan, Golu, Toti, Kalwa and 4/5 other unidentified persons, who were having knives, sticks and rods in their hands, surrounded us and started beating us without any talk and said that we will teach you a lesson for blaming us of theft, to which the said Munshi hit the knife held in his hand in my left side of the abdomen with the intention of killing me, with which the intestines came out of my abdomen and upon which, Jashan who held the rod in his hand with the intention of killing me, hit me on my head, which hit me on the head and I fell to the ground, thereby, which Golu, who was holding a rod in his hand hit me on my left arm while I being laying on the ground and in this instance, Toti hit the rod held in his hand on my back and Kalwa gave me fist blown on I being laid down on the ground and 4/5 other unknown persons also surrounded and beat us, so much so that the accused Vijay hit my brother-in-law Lavish on the left ear with a sword in his hand and with which he fell on the ground and the accused Kalwa hit on his face my brother-in-law who was lying, with a stick in his hand with the intention of killing him, by which his upper tooth was broken and the fell on the spot and the remaining youngsters started beating me with sticks. The accused tried to hold my wife Radhika and put her in the car upon which my wife screamed Maarta-Maarta then the youths started abusing us and while running away, they snatched the gold chain from my neck and threatened and left us at the spot. Then my wife arranged a vehicle and got me and my brother-in-law Lavish admitted to Rajindra Hospital, Patiala, where the doctor referred me to Amar Hospital, Patiala due to my worsening condition, where I was treated. You have recorded my statement in the presence of my wife Radhika, which is fine after hearing it. True/-Deponent Shakti, Witnessed/-Radhika 83608-10177 Verification/- Jaswant Singh HC/627 Station House Officer Colony Patiala dated 20-1-2024.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 02.04.2024. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that there was an inordinate delay in recording the statement of the victim by the police even after the said victim had been declared fit by the doctor. Learned counsel for the petitioner has further argued that the offence under Sections 326/325 IPC is not made out against the petitioner. Learned counsel for the petitioner has further urged that the FIR in question came to be registered on 20.01.2024 wherein all offences were bailable and the

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petitioner was never ever arrested. Still further, it has been iterated by the learned counsel for the petitioner that the petitioner had never ever tried to interfere with the investigation before adding of Sections 326/325 of IPC on 01.04.2024 i.e. the date when the petitioner was arrested. Learned counsel for the petitioner has further urged that co-accused, namely, Jashandeep Singh @ Jashan has been granted the concession of regular bail by this Court vide order dated 05.02.2025 passed in CRM-M-32346-2024. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 02.04.2024 whereinafter investigation was carried out & challan was presented on 14.06.2024. Total 17 prosecution witnesses have been cited out of which only 2 have been examined till date. It is a common ground between the rival parties that both the prime prosecution witnesses i.e. both the victims have already been examined as prosecution witnesses. The contentions raised by rival parties give rise to debatable issues which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 26.03.2025 filed by the learned State counsel, the petitioner has suffered incarceration for

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more than 11 months and 24 days & is not shown to be involved in any other case. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

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8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

27.03.2025*Jasmine Kaur***(SUMEET GOEL)
JUDGE**

Whether speaking/reasoned

Yes No

Whether reportable

Yes No