



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

CRM-M No.18574 of 2024
Date of decision: 13th February, 2025

Ashib Khan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Aditya Sanghi, Mr. Ashish Sanghi &
Mr. Pradeep Bhardwaj, Advocates for the petitioner.

Mr. Yuvraj Shandilya, Asst. Advocate General, Haryana
for the respondent/State.

Mr. J.P. Sharma, Advocate for the complainant.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.221 dated 09.09.2023 under Sections 148, 149, 302, 307, 323, 325, 506, 34 of the IPC registered at Police Station Sadar Kanina, District Mahendergarh.

2. Learned counsel for the petitioner contends that the petitioner has been in custody since 20.09.2023. As per the FIR, the petitioner along with a number of other co-accused, allegedly attacked the complainant party, including the deceased, using weapons such as axes, iron rods and sticks. However, as per the learned counsel, the medical evidence, including the medico-legal report and the post-

mortem report of the deceased, reveals that the deceased sustained only three injuries, i.e. one on the head and two other injuries on his forehead and near his shoulder.

3. Learned counsel for the petitioner further contends that if multiple accused had indeed attacked the deceased with lethal weapons, as alleged, it is improbable that the deceased would have sustained only these limited injuries. It has also been argued that the occurrence took place in open fields, and the petitioner side also suffered injuries, including injuries which were declared dangerous to life, for which a separate complaint/FIR was lodged.

4. It has still further been submitted by the learned counsel that while the petitioner is named in the FIR, no specific injury or role is attributed to him. The complainant party has sought to implicate multiple persons without clear allegations. Moreover, learned counsel has asserted that the proceedings before the trial Court have been delayed, as only 01 out of 27 prosecution witnesses has been examined so far. An application under Section 319 Cr.P.C. has been moved by the prosecution which is pending and the complainant is repeatedly seeking adjournments, as a result of which the trial has not progressed. In support, learned counsel has placed on record the zimni orders of the trial Court, wherein it stands reflected that the counsel for the complainant has not been advancing arguments on the application moved under Section 319 Cr.P.C., as a result of which the trial Court has been adjourning the case repeatedly.

5. Per contra, learned State counsel assisted by the learned counsel for the complainant has vehemently opposed the prayer and submissions made by the counsel opposite, by arguing that the case is based on an eye-witness account and that the petitioner was specifically named in the FIR. It has been submitted that although no specific injury or role was initially assigned to the petitioner, however, the lacerated wound on the head of the deceased was later found to have been inflicted by the petitioner with a stick. On specific queries, it is not disputed that (i) the deceased sustained only three injuries, two of which were on non-vital parts, (ii) the petitioner side also sustained injuries, (iii) it is a case of version and cross-version, (iv) the occurrence took place in open fields and (v) the complainant party has been repeatedly taking adjournments before the trial Court as a result of which arguments on the application under Section 319 Cr.P.C. have not been advanced till date. However, learned State counsel and learned counsel for the complainant have reiterated the allegations levelled in the FIR in question, which stands reproduced hereunder:

“Subject: Assault and giving threat to kill. Sir, it is requested that I Irfan son of Shri Babu Khan am resident of Village Bhojawas Police Station Kanina District Mahendergarh and am doing labour work. That yesterday on dated 08.09.2023 time at around 05:30 PM in the evening Nasim son of Aas Mohammad and Samir son of Sabuddin village Bhojawas that in our village a cow is wandering. That Nasim son of Aas Mohammad and Samir son of Sabuddin village Bhojawas were catching the cows

and were ceasing them in our Saje ke Chowk and were assaulting them, that my grandmother Maina wife of Nizamuddin R/o Bhojawas inhibited them to beat the cows then Nasim and Samir along with their family members Sabuddin son of Salim Khan, Wasim Khan son of Aas Mohammad, Ashib son of Lal Singh, Aas Mohammad son of Lal Singh, Lal Singh son of Yasin, Anjum wife of Ashib, Julekha wife of Aas Mohamad, Deen Mohamad son of Lal Singh, Mehboob son of Salim, Shaukin son of Salim, Salim son of Yasin residents of Bhojawas, while carrying sticks, batons and Axe and Iron Rod in their hands and came and as soon as they came they started assaulting us then Nasim hit me with baton upon the fingers of my left hand and rest of them Ffroz Khan son of Mansuf Ali, Gulfed son of Munsaf Ali, Asraf son of Babu Khan, Shahida wife of Firoz Khan, Shahina daughter of Firoz Khan, Arif Khan son of Babu Khan, Rafique son of Babu Khan, Maina wife of Nizamuddin residents of Bhojawas inflicted injury with batons and Iron Rod, that they shall tell about their injuries on their own and Firoz Khan son of Munsaf Ali was beaten up by Nasim son of Aas Mohammad, Samir son of Sabuddin, Wasim son of Aas Mohammad, Anjum wife of Asib R/o Bhojawas with batton, stick and Axe and sharp edged weapons, that we raised clamour of killed - killed, then lot of people of village came, that they fled by leaving us, while leaving they were saying that today you have been saved by the villagers, if we get chance in future then we shall kill you. Then we made arrangement of vehicle came to Government Hospital Kanina where the Doctor gave us treatment, issued M.L.R. and referred us, that Firoz Khan is admitted in Aditya Hospital Rewari, who due to

sustaining substantial injuries is in unconscious condition and Maina, Shahida and Rafique are admitted in P.G.I. Rohtak. And rest are admitted in Government Hospital Mahendergarh. That above named persons have beaten us brutally. And we have danger from them. Legal action may be initiated against them, today I have submitted an application at Aditya Hospital Rewari. Sd/- Irfan Khan.”

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. The petitioner has been in custody since 20.09.2023. No specific injury or role has been attributed to him in the FIR in question, and it is a case based on version and cross-version. Given the prolonged detention and lack of foreseeable conclusion of the trial, further incarceration of the petitioner would serve no useful purpose. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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 13, 2025

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| Whether speaking/reasoned | Yes/No |
| Whether reportable | Yes/No |