

**HIGH COURT OF PUNJAB AND HARYANA****Bench: Hon'ble Mr. Justice Pankaj Jain****Date of Decision: November 16, 2023**

CRM-M-56326-2023

**MANOJ****...Petitioner****Versus****STATE OF HARYANA****....Respondent****Sections, Acts, and Rules Mentioned:**

Section 439 of the Criminal Procedure Code (Cr.P.C.)

Sections 148, 149, 201, 323, 325, 307, 379-B, 452, 506 of the Indian Penal Code (IPC)

Section 25 of the Arms Act

**Subject:**

Petition for the grant of regular bail under Section 439 Cr.P.C.

related to FIR No. 49, involving various offenses under the IPC and the Arms Act.

**Headnotes:**

Bail Petition under Section 439 Cr.P.C. for Regular Bail – Petitioner seeking regular bail in case of FIR No. 49 for offences under IPC sections 148, 149, 201, 323, 325, 307, 379-B, 452, 506 & Arms Act Section 25 – Allegations of violent assault with weapons and theft. [Para 1]

FIR Details and Allegations – FIR alleges the petitioner and others attacked complainant with weapons, causing injuries and theft – FIR details a violent brawl at complainant's residence. [Para 2]

Petitioner's Defense and Co-Accused's Bail – Petitioner claims non-participation in the incident, citing bail granted to co-accused Satish under similar circumstances – Argument on petitioner's non-involvement and completion of investigation. [Para 3]

Opposition to Bail by State and Complainant – State and complainant counsel oppose bail, highlighting the severity of allegations and injuries inflicted – Emphasis on specific role attributed to the petitioner. [Para 4]

Decision – Court notes completion of investigation and challan presentation – Considering petitioner's incarceration duration, bail granted with conditions – Bail to be furnished to satisfaction of Trial Court/Duty Magistrate. [Para 6]

Referred Cases: None.

Representing Advocates:

Mr. Pardeep Panwar for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana, for the respondent (State of Haryana).

Ms. Ruby Kaur for the complainant.

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**PANKAJ JAIN, J. (ORAL)**

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.49, dated 28.02.2023 registered for the offences punishable under Sections 148, 149, 201, 323, 325, 307, 379-B, 452, 506 of the IPC & 25 of Arms Act at Police Station Tigaon, District Faridabad (Haryana).

2. As per the allegations levelled in the FIR, it has been alleged as under :

“To the SHO, Police Station Tigaon, Faridabad Sir, I request that I Rampal S/o Pritam Singh, resident of Village Sidola, District Faridabad, on 27.2.2023 at around 9:00 p.m., I was at my house, at that time Manoj son of Perhlad, resident of Sidola came to our house after drinking alcohol and started abusing without any reason. When, I protested against it, he said I will tell you right now and went his house. After sometime, Bharti son of Perhlad, Satish, Ravi, Nehpal, sons of Bharti, Amit son of Singhraj, Mahavir son of Perhlad, Sunil son of Bishram, Anil son of Bishram, Deepak son of Mahender, resident of Shahabad came to our house in friendly manner with sticks, axe, sword, in their hands and attacks us. He attacked me and Nepal hit me

with sword he had in his hand, on my face, on my leg and all the accused attacked me with the sticks they had in their hands and Deepak and Amit fired directly at me with the katta but I am escaped, now my wife Kashmiri tried to rescue me, then Satish hit my wife with a stick in his hand and beat me with kicks and punches and took away my wife's gold chain and earrings. Thereafter, assailants fled away from the spot threatening to kill him. Lalit son of Pritam, Manisha wife of Lalit, Krishan son of Shyoli, Shivam son of Ram Pal, Pritam son of Shyoli, Harbir son of Sher Singh, Rahul son of Hansraj also got injury during the fight, then Netra Ram son of Shersingh made us all sit in the car and got us admitted to government hospital BK for treatment, from thereafter taking treatment, we were admitted to Madhav Hospital NIT-5 FBD, who along with the above accused 5-10 other people whose named we don't know, all these above mentioned people entered our house and beat us without any reason under planning, Legal action should be taken against all these people.”

3. Counsel for the petitioner submits that even if the allegations as levelled in the FIR are taken on their face value it is evident that though the petitioner is being projected as the cause of dispute but he himself never participated in the same. Further reliance is being placed upon order dated 20<sup>th</sup> of October, 2023 passed in CRM-M No.52528 of 2023 whereby coaccused namely Satish stands admitted to bail observing as under :

“XXXXX

<sup>2</sup> Learned counsel for the petitioner submits that the investigation already stands concluded and it was in fact a brawl wherein both the parties suffered injuries. Reliance is being placed upon order dated 14.09.2023 passed in **CRM-M-450042023** whereby co-accused namely Mahavir stands admitted to bail. Learned counsel for the petitioner submits that once investigation is complete the custody of the petitioner cannot be prolonged as a punitive measure and thus the petitioner would be entitled for bail. She further submits that keeping in view that the injuries alleged to have been caused are fist and kick

blows and the injuries are simple in nature, the petitioner deserves to be admitted to bail. The petitioner has been in custody since 03.04.2023.

<sup>3</sup> *Per contra*, learned counsel for the complainant vehemently opposes the bail plea. He submits that it is a case wherein the victim has suffered 3 injuries including nasal fracture and there is a specific role attributed to the petitioner which was not in the case of Mahavir and thus he cannot be allowed to claim parity *vis-a-vis* Mahavir.

<sup>4</sup> Learned State counsel has also opposed the bail plea and submitted that keeping in view the seriousness of the allegations, the petitioner does not merit admission on bail.

<sup>5</sup> I have heard learned counsel for the parties and have gone through the records of the case.

<sup>6</sup> Having heard rival contentions, this Court is of the view that the investigation already stands concluded and the challan stands presented, keeping in view the incarceration suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.xxx”

4. Ld. State Counsel as well as Ms. Ruby Kaur, Advocate appearing for the complaint are not in position to dispute the aforesaid factual assertions made by counsel for the petitioner which are based on record.
5. I have heard counsel for the parties and have gone through records of the case.
6. Without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner and the allegations levelled against him, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
7. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

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