

**IN THE COURT OF SH. KULBHUSHAN KUMAR,  
(UID No.PB0170 ADDITIONAL SESSIONS JUDGE,  
PATHANKOT.**

PBPO010037882023



CIS No.BA/1034/2023.  
CNR No. PBPO010037882023.  
Date of order : 04.11.2023.

1. Shubham Kumar aged 27 years son of Yog Raj, resident of Saili Kullian, near JCB Showroom, Pathankot.
2. Boota Singh aged about 24 years son of Balwant Singh, resident of Ward No.19, Saili Kullian, Tehsil and District Pathankot.
3. Shubham Kumar aged 27 years son of Saroop Lal, resident of Ward no.19, Saili Kullian, Tehsil and District Pathankot.

**.....Accused/Applicants.**

Versus

State of Punjab.

FIR No.121 dated 02.09.2023.  
U/s 323, 148, 149 IPC (379-B IPC added  
lateron)  
Police Station Division no.2, Pathankot.

**Application under section 439 Cr.P.C.**

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Present: Sh. Sourabh Ohri Advocate counsel for accused/applicants.  
Ms. Ambica Gupta Additional Public Prosecutor for State.

**ORDER:**

1. This order of mine shall dispose of application filed U/s 438 Cr.P.C by applicants/accused Shubham Kumar aged 27 years son of Yog Raj, resident of Saili Kullian, near JCB Showroom, Pathankot, Boota Singh aged about 24 years son of Balwant Singh, resident of Ward No.19, Saili Kullian, Tehsil and District Pathankot and Shubham Kumar aged 27 years son of Saroop Lal, resident of Ward no.19, Saili Kullian, Tehsil and

Kulbhushan Kumar,  
Additional Sessions Judge, Pathankot.  
(UID No.PB-0170), Dated 04.11.2023.

District Pathankot for seeking regular bail in case FIR No.121 dated 02.09.2023, under section 323, 148, 149 IPC (379-B IPC added lateron), PS Division no.2, Pathankot.

2. Notice of the bail application was issued to the State. The Ld. Addl. PP for the State has not filed written reply. Record has been called and perused.

3. Brief facts of the case are that the present FIR has been registered on the statement of complainant Rubbal Mahajan with the allegations that he was running a shop in the name and style of R.M. Financial Services at Saili Road, Pathankot. On 29.08.2023 his friend Mayank Bhardwaj took his vehicle make Mahindra Thar bearing no.PB35-AK-9500 to Sredd Force Gym, Saili Road, Pathankot for his workout. At about 07.00 PM he disclosed to him through his mobile phone that Pawandeep@ Chotta Chiri sent Harpal Singh in the Gym to get the key of his aforesaid vehicle and said Harpal Singh is demanding the key of his vehicle from him. Then, he told to his friend Mayank Bhardwaj that he is coming to him. Thereafter, he and his brother Hanush Mahajan reached outside Sred Force Gym Saili Kullian road, Pathankot. At about 07.05 PM when he and his brother came out from his Car make Creta, then they saw Pawandeep@ Chotta Chiri, Harpal Singh armed with Dattar, Shubham son of Toni, Buta and Shubham@ Shibu son of Saroop armed with Dattar were standing there. Pawandeep@ Chotta Chiri raised lalkara to catch them and teach a lesson to the moneylender of not paying the monthly money to them. Then Harpal Singh gave reverse blow of his Dattar upon him, which struck on his right knee. In the meanwhile Pawandeep@ Chotta Chiri snatched the Dattar from Harpal Singh and gave reverse Dattar of blow upon him which struck on his left knee. Hanush came forward to rescue him. Then Shubham@ Shibu gave reverse blow of Dattar on his brother Hanush, which struck on the left wrist. Buta Singh gave fist blow of his right hand upon Hanush, which stuck on his right eye. In the meantime Shubham son of Tony gave fist blow of his right hand upon him which struck on the right side of his

forehead. Then Pawandeep@ Chotta Chiri broke the gold chain weighing 4 Tolas, which he was wearing on his neck and thereafter Pawandeep and his associates ran away from the spot along with their respective weapons. Sanjay Kumar son of Babu Ram witnessed the entire occurrence as he was standing at the place of occurrence. Then, he and his brother went to Civil Hospital, Pathankot for their medical examination. On the basis of aforesaid statement of the complainant, the present FIR was registered.

4. Counsel for applicants/accused argued that the applicants/accused are law abiding citizens. The present FIR was registered after 5 days under bailable offences on 02.09.2023. The complainant has filed a false and frivolous complaint against them and the complainant has also registered the present false FIR against the applicants/accused. The applicants/accused have been nominated falsely in the present FIR. Whereas, they have not committed any offence alleged in the FIR. Actually all the sections of the aforesaid FIR are bailable in nature, but all the applicants/accused are apprehending strongly that the local police at the instance of the complainant can add some non-bailable sections in the FIR against the applicants/accused and the applicants/accused can be detained in custody illegally in this case. He further argued that accused Pawandeep@ Chotta Chiri and Harpal Singh approached the court for pre-arrest bail after addition of offence under Section 379-B of IPC and the court had granted the ad-interim relief to them vide order dated 25.10.2023. He further argued that the applicants/accused undertake to abide by all the terms and conditions of the bail. He prayed to allow the bail application.

5. On the other hand, learned Addl. PP for State opposed the contention raised by the applicant/accused. She further argued that the applicants/accused have caused injuries to the complainant and his brother Hanush with deadly weapons. As the applicants/accused have committed crime against the complainant and his brother, so, they are not entitled to the bail. Hence, she prayed for dismissal of the bail

application.

6. After hearing rival arguments addressed by the counsel for the applicant/accused and learned Addl. P.P for State and further going through the record available on file, this court is of the view that the present FIR has been registered on the statement of complainant Rubbal Mahajan. He leveled the allegations that the applicants/accused and non-applicant/accused caused injuries to the complainant and his brother Hanush Mahajan. Earlier, the allegations against the applicants/accused are of bailable offences and those offences were triable by the Magistrate. Now, the police enhanced the offence under Section 379-B on the basis of disclosure statement suffered by the applicant/accused Shubham Kumar@Shibu dated 06.10.2023 vide GD no.48 dated 06.10.2023, whereas the occurrence was of 29.08.2023. The applicants/accused are in custody since 06.10.2023. The applicants/accused are no more required for any recovery in the present case. However, the criminality of the applicants/accused is of matter of evidence. The presentation of challan will take its own time and the conclusion of the trial will take long time. So, no useful purpose would be served to keep the accused/applicants behind the bars, rather, it will be expenditure to the State. Hence, it is fit case where the relief of bail can be granted to the applicants/accused. As such, the application filed by the applicants is allowed and they are ordered to be released on bail on furnishing bail bonds in the sum of Rs.1,00,000/- each with one surety in the like amount to the satisfaction of Illaqa/Duty Magistrate, Pathankot. The copy of this order be sent to the Illaqa/Duty Magistrate, Pathankot for information and necessary compliance subject to the following conditions :

1. That applicant/accused shall attend Court on each and every date of hearing.
2. That applicant/accused shall not commit an offence similar to the offence of which he/she is accused, or suspected, of the commission of which he is suspected;
3. That applicant/accused shall not directly or indirectly make any inducement, threat or

promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer to tamper with the evidence;

4. That applicant/accused shall not leave the country without prior permission of Court.

7. However, the observation of mine will not effect the merit of the case. Record be returned. The bail application complete in all respect be consigned to the Record Room, Pathankot.

**Pronounced in the Open Court.**  
**Dated:04.11.2023.**

**(Kulbhushan Kumar)**  
**(UID No.PB0170),**  
**Additional Sessions Judge,**  
**Pathankot.**

\* Typed by Bikram Chugh, Stenographer-I on direct dictation on computer.