

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25827-2015

Date of Decision: September 29, 2015

Sukhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Gautam Dutt, Advocate,
for the petitioner.

Mr. P.S. Ghuman, Addl. AG, Punjab,
for the respondent.

Mr. P.S. Ahluwalia, Advocate,
for the informant.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition, filed under Section 439, Cr.P.C.,
is for grant of regular bail to the petitioner, Sukhwinder Singh,
son of Harbans Singh, resident of village Kahlanwali, Police
Station, Dera Baba Nanak, District Gurdaspur, who has been
booked for having committed the offences punishable under
Sections 148, 302, 307, 323, 324, 382 and 452 read with Section
149, IPC, and Sections 25 and 27 of the Arms Act, in a case arising

out of FIR No. 83, dated 8.10.2013, registered at Police Station, Dera Baba Nanak, Police District Batala, District Gurdaspur.

Learned counsel contends that during investigation no role for causing injury either to the deceased or to the injured persons, has been assigned to the petitioner; similar situate co-accused, namely, Makhan Singh, was granted bail by learned Additional Sessions Judge, Gurdaspur, vide order dated 7.5.2014 (Annexure P-6); it is a case of version and cross-version since two persons from the petitioner's side had also sustained injuries in the same quarrel; the motive for quarrel was the manure pits situate on the main road near the residential houses of the parties; the informant/prosecution has now moved an application under Section 319, Cr.P.C., for summoning of additional accused, which is pending adjudication; and that the petitioner is behind the bars from 16.10.2013.

Learned counsel for the State on instructions from ASI Jaswinder Singh of Police Station, Dera Baba Nanak, Police District Batala, District Gurdaspur, and after going through the material available on police file, very fairly concedes that the petitioner was armed with a *Gandasi* (a sharp edged weapon usually retained by agriculturists), but he had not caused any

injury by the said weapon. However, during his examination-in-chief, Gurwinder Singh (PW) did depose that the petitioner had given kick blows on the person of Bhagwan Singh (since deceased), but the said fact was not corroborated by medical evidence. He further fairly concedes that the petitioner is behind the bars from 16.10.2013.

Learned counsel for the informant/complainant side submits that it is a case of double murder and applicability of Section 149, IPC, would be a moot point during trial.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

There is no dispute that the petitioner was allegedly armed with a *Gandasi* (a sharp edged weapon usually retained by agriculturists), but he did not use the same for causing injuries either on the deceased or to the injured persons. In the examination-in-chief, what has been attributed to the petitioner by Gurwinder Singh (PW) is not corroborated by medical evidence. The petitioner is behind the bars from 16.10.2013. Two persons from the petitioner's side had also sustained injuries and the motive for commission of the crime was manure

pits on the main road of the locality where the houses of the parties are situate. The earlier bail petition filed by the petitioner was not decided on merits and the same was withdrawn on 3.7.2014.

Keeping in view totality of the facts and circumstances of the case, the present petition is allowed. The petitioner, Sukhwinder Singh, son of Harbans Singh, resident of village Kahlanwali, Police Station, Dera Baba Nanak, District Gurdaspur, is directed to be released on bail during pendency of the trial of the present case subject to his furnishing bonds in the sum of ₹1,00,000/- (Rupees one lac only) with one surety in the like amount, to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Gurdaspur.

The observations made here-in-above are for the limited purpose of deciding the present petition for bail.

(NARESH KUMAR SANGHI)
JUDGE

September 29, 2015
Pkapoor