

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M No.4981 of 2015

Date of Decision:23.02.2015

Lakhwinder Singh @ Gujjar & another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR.

**Present: Mr.Bikramjit Aroura, Advocate,
for the petitioners.**

**Mr.Jaspreet Singh Sekhon, Assistant Advocate General,
Punjab, for the respondent-State.**

MEHINDER SINGH SULLAR, J.(oral)

The petitioners have preferred the instant petition for the grant of concession of regular bail, in a case registered against them along with their other co-accused Balwinder Singh @ Pappu and others, vide FIR No.3 dated 13.01.2013, on accusation of having committed the offences punishable under Sections 302, 323 and 34 IPC, by the police of Police Station Khalra, District Tarn Taran.

2. Notice of the petition was issued to the State.

3. Having heard the learned counsel for the parties, having gone through the record with their valuable assistance and after bestowal of thoughts over the entire matter, to my mind, the present petition for regular bail deserves to be accepted in this context.

4. Concisely, the prosecution, *inter alia*, claimed that on 12.01.2013, all the accused came to the spot and caused injuries to

complainant-Jugraj Singh son of Shingara Singh(for brevity “the complainant”) and other injured PWs. Neither any specific role(except lalkara) nor any injury is attributed to Kala Singh(petitioner No.2) in the FIR, whereas, Lakhwinder Singh @ Gujjar(petitioner No.1) was stated to have caused a brick-bat injury to Parkash Kaur. Consequently, she felled from the roof on the ground and succumbed to her injuries. It is not a matter of dispute that, the instant case was registered in the wake of statement of the complainant. He, while appearing as PW1, did not support the prosecution case in the court, vide his statement(Annexure P-2). Sequelly, other eye-witnesses PW2-Piara Singh, PW3-Manjit Singh, PW4 Jagir Singh and PW5-Raj Kaur, also did not support the prosecution case and were declared hostile, by way of their respective statements(Annexures P-3 to P-6). Instead of supporting, they have demolished the prosecution version in its entirety. In that eventuality, what is the evidentiary value, admissibility and acceptability of statements of such hostile witnesses against the petitioners, *inter alia*, would be a moot point to be decided after receipt of evidence of the parties during the course of trial by the trial Court.

5. Be that as it may, petitioner No.1 was arrested on 15.01.2013, whereas, petitioner No.2 was arrested in this case on 14.01.2013. Since then they are in judicial custody and no useful purpose would be served to further detain them in jail. There is no history of their previous involvement in any other criminal case. The final conclusion of trial will naturally take a long time.

6. Not only that, Balwinder Singh @ Pappu, similarly situated

co-accused of the petitioners, was granted the concession of regular bail, by means of order dated 30.05.2014(Annexure P-8) in CRM-M No.18426 of 2014 by this Court. Therefore, I see no reason not to extend the same benefit of regular bail to the present petitioners as well under the similar set of circumstances.

7. In the light of aforesaid reasons, taking into consideration the nature of evidence, peculiar facts & the special circumstances, emanating from the record, as discussed here-in-above and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial of the main case, the instant petition for regular bail is hereby accepted. The petitioners are ordered to be released on bail on their furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court.

Needless to mention that, nothing observed here-in-above, would reflect, on merits in the trial of the main case, in any manner, as the same has been so recorded for a limited purpose of deciding the present petition for regular bail.

February 23, 2015
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(MEHINDER SINGH SULLAR)
JUDGE