

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

**Criminal Misc. M-865 of 2015
Date of Decision: September 4, 2015**

Lakhwinder Singh @ SahbiPetitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. G.S.Simble, Advocate
for the petitioner.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

Mr. Jaswinder Singh, Advocate
for the complainant.

T.P.S.MANN, J. (Oral)

This is the fifth petition by Lakhwinder Singh @ Sahbi for his release on bail, the first three having been dismissed as withdrawn on 23.7.2012, 5.12.2012 and 16.5.2013 while the fourth dismissed on 14.5.2014.

The petitioner is facing trial in FIR No. 68 dated 24.8.2011 under Sections 307/326/148/149 IPC, Police Station Dera Baba Nanak and is behind the bars since 30.11.2011.

Learned counsel for the petitioner has submitted that in support of the ocular account of the occurrence, the

prosecution had cited Ranjit Kaur, Harmesh Singh and Baldev Singh. Out of them Ranjit Kaur and Baldev Singh have since been examined. Harmesh Singh has been given up by the Additional Public Prosecutor on the ground that he is 100% brain dead and in vegetative state. Therefore, it cannot be said that in the event of petitioner being granted the concession of bail, he is likely to misuse the concession by tampering with the prosecution evidence. It is also submitted that on the side of the accused, the petitioner had also received injuries including the one falling under the ambit of Section 308 IPC.

Learned State counsel as well as learned counsel for the complainant have vehemently opposed the prayer made on behalf of the petitioner by submitting that on account of injuries received by Harmesh Singh in the occurrence, he had gone into coma and has recently been able to come out of the same. However, he is 100% brain dead and in vegetative state and for that reason said Harmesh Singh could not be examined by the prosecution in support of its case and the Additional Public Prosecutor had given him up by making a statement in that regard.

Learned State counsel, after obtaining instructions from ASI Gurmukh Singh, has informed the Court that the prosecution has cited fourteen witnesses in support of its case

and out of them three have since been examined whereas one given up. It is also submitted that the trial of the case is fixed for today itself wherein the prosecution is likely to examine more witnesses.

It is true that Harmesh Singh went into coma upon receiving the injuries in the occurrence and though he has come out of the same, he still remains 100% brain dead and in vegetative state, yet that alone is not sufficient to keep the petitioner behind the bars so as to await the final decision of the trial. The star witnesses of the prosecution have already been examined and most of the remaining witnesses would be deposing regarding the investigation part of the case only. The petitioner has already undergone a period of more than three years and nine months.

Without commenting on the merits, lest it may prejudice the case of either party, this Court is of the considered view that the petitioner, namely, Lakhwinder Singh @ Sahbi, deserves the concession of bail.

Resultantly, the petition is accepted. Bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Gurdaspur.

September 4, 2015
amit rana

(T.P.S. MANN)
JUDGE