

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

(214)

CRM-M-16648-2015

Decided on: January 22, 2016.

Avtar Singh

.... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Preetinder Singh Ahluwalia, Advocate,
for the petitioner.

Ms. Simsi Dhir Malhotra, DAG, Punjab.

Mr. J.S. Lalli, Advocate,
for the complainant.

M.M.S. BEDI, J (ORAL)

Petitioner seeks concession of regular bail in a case registered at the instance of Amarjit Singh alleging that the petitioner along with 13/14 other co-accused had assaulted the complainant and his nephew Kuldeep Singh by attacking them with weapons like daggers, 'kirpan' and 'datar' on account of which complainant and his nephew Kuldeep Singh received grievous injuries. Kuldeep Singh died of the injuries. The role attributed to the petitioner is that he had given a 'datar' blow on the left side of head of the deceased Kuldeep Singh.

Learned counsel for the petitioner has contended that the petitioner has been in custody w.e.f. 26.03.2014 and that it is a case of version and cross-version where the complainant party has been challaned for offences under Sections 307, 325, 326 IPC. It has been vehemently urged that the petitioner has also received a grievous injury on his head as per MLR Annexure P-2. The deceased had received three

injuries on the head but with an object to cast the net wide, a large number of accused have been involved in this case. The period of detention i.e. one year and ten months has also been claimed by the petitioner to be a factor to seek concession of regular bail on the ground that co-accused of the petitioner have been granted concession of regular bail. He has further argued that an application under Section 319 Cr.P.C has been allowed by the trial court summoning additional accused which would result in denovo trial, causing unnecessary delay and prejudice to the petitioner. He has also argued that the injury attributed to the petitioner on the head has not resulted in the death of the injured. It is the co-accused of the petitioner who has been attributed injury which resulted in the death of Kuldeep Singh.

Learned counsel for the complainant has intervened to oppose application for bail contending that the petitioner as a member of unlawful assembly is liable for the murder of Kuldeep Singh. He has submitted that cross-version had been recorded after three days on the basis of medical obtained from the private hospital. He has referred to the injuries suffered by the petitioner side, submitting that the injuries were self-suffered and when examined were already sutured.

Learned State counsel has contended that the petitioner is not entitled to seek parity with the co-accused who have been granted bail as they have not been attributed any injury resulting in the death of Kuldeep Singh.

I have heard learned counsel for the petitioner, learned counsel for the complainant and learned State counsel.

Perusal of the police file indicates that out of 12 named accused, only 6 accused were challaned by the investigating agency. On the basis of statement of Amarjit Singh PW made in the Court, the trial Court has opted to summon 8 additional accused.

I have also considered the contention of learned counsel for the petitioner that further proceedings before the trial Court are being stalled on account of stay having been granted by this Court to Davinder Singh and Ranjit Singh in a revision petition challenging the summoning order. The said revision petition has been finally disposed of today.

The role attributed to the petitioner of having caused two injuries with 'datar' on the left side of the head of the deceased, he cannot be granted concession of bail, at this stage, drawing parity with the co-accused. Co-accused of the petitioner have been granted concession of bail as they had not been attributed any specific injury on the person of the deceased.

I have considered the contentions of learned counsel for the petitioner and I am of the opinion that it will not be appropriate for this Court to enter into the niceties of the trial and to appreciate the evidence, at this stage lest it should prejudice the rights of the petitioner or the prosecution agency.

The petition for regular bail is hereby dismissed.

Nothing said in this order will effect the merits of the case at final stage.

(M.M.S. BEDI)
JUDGE

January 22, 2016
harsha