

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

Date of decision:22.01.2016

Gurbir Singh

.....Petitioner

v.

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Ms.Arati Kaur,Advocate for the petitioner

Mr.Mikhil Kad,AAG Punjab

Mr.Inderpal Singh,Advocate for the complainant.

Jaswant Singh,J.(Oral)

CRM 2086/2016 is allowed and copy of order dated 27.4.2015 framing charge is taken on record as Annexure P-7.

CRM-M3621/2015

Prayer is for grant of regular bail in case FIR no.45 dated 6.7.2013 under Sections 307,326, 452, 427, 506,341, 148,149 IPC (302 IPC added later on),PS Sarai Amanat Khan, Distt.Tarn Taran. However, on completion of investigation charge has been framed under Section 304 IPC.

On account of occurrence on 5.7.2013 at 9 pm aforesaid FIR was lodged by complainant Gurjant Singh inter alia with the allegations that the present petitioner-accused Gurbir Singh had

inflicted a *datar* blow on the head of injured Baljinder Singh which was opined to be dangerous to life. A cross version case was also lodged by Gopal Singh belonging to the accused party vide rapat no.29 dated 8.7.2013 under Sections 452, 324,323, 148,149,506,427 IPC.

Admittedly on account of injuries to Baljinder Singh he was operated upon. However, subsequently some infection crept in and he was advised a fresh operation, which as per progress report dated 14.8.2013(P-4), not consented to on behalf of the injured. Said Baljinder Singh was got discharged against medical advice with the undertaking that if any mis-happening occurs complainant party themselves would be responsible for the same. Subsequently,after a period of eight months approximately said Baljinder Singh died on 23.3.2014.

It is also not in dispute that in the cross version some members of the accused party have received injuries and on completion of investigation challan presented and charges have been framed in the cross version.

Counsel for the parties heard at length.

It is contended that on account of single blow on the head, at best, a charge against petitioner-accused would be made out under Section 307 IPC in the undisputed facts of this case as stated hereinabove. It is next contended that in the light of cross version it was the complainant party which had launched attack on the house of the accused party and it is matter of trial as to who was real aggressor.

The petitioner is stated to be in custody since 4.9.2013 and after summoning of additional accused under Section 319 Cr.PC, trial has commenced *de novo*.

Learned State counsel assisted by ASI Surinder Kumar does not dispute the custody period as also the fact of *de novo* trial.

Without expressing anything on the merits of the case, keeping in view the fact that the challan has been presented and the *de novo* trial is not likely to be concluded in near future and no useful purpose would be served by keeping the petitioner in custody, the present petition is allowed and petitioner is directed to be released on bail subject to the satisfaction of CJM/Duty Magistrate, Tarn Taran.

22.01.2016
joshi

(Jaswant Singh)
Judge