

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CRM No. M-43743 of 2015 (O&M)  
Date of Decision: 27.01.2016

Kuldeep & another

--Petitioners

Versus

State of Haryana

--Respondent

**CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.**

Present:- Mr. Anjum Ahmed, Advocate for the petitioners.

Mr. Deepak K. Grewal, D.A.G., Haryana.

Mr. N.S. Shekhawat, Advocate for the complainant.

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**TEJINDER SINGH DHINDSA.J**

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioners in case F.I.R. No.67 dated 16.3.2015 under sections 323, 325, 341, 506, 34 I.P.C (Section 304 I.P.C was added later on), registered at Police Station, Bawani Khera, District Bhiwani.

Learned counsel for the parties have been heard.

F.I.R came to be registered on the statement of Malkeet Singh in relation to an occurrence that took place on 15.3.2015. Malkeet Singh succumbed to his injuries suffered in the occurrence on 24.3.2015.

In so far as the present two petitioners are concerned namely Kuldeep son of Chatar Singh and Resham Singh son of Mahender Singh, specific overt act has been attributed to them of being armed with *Dandas* and having beaten up the complainant.

Initially F.I.R was registered under sections 323, 325, 341, 506, 34 I.P.C and subsequently section 304 I.P.C was added.

Malkeet Singh was initially taken to P.G.I.M.E.R., Rohtak and thereafter admitted in Base Hospital, Delhi Cantt. on 20.3.2015 and expired on 24.3.2015 while undergoing treatment.

It would be apposite to refer to the Post Mortem Report of deceased Malkeet Singh conducted at Safdarjung Hospital, New Delhi and wherein the description of the injuries on the person of the deceased is as follows:-

- “1. Below knee surgical amputation, 5 cm below left knee present with exposing underlying soft tissue, bones, nerves, blood vessels and muscles. Base of the wound contains yellowish green foul smelling pus.*
- 2. Below knee surgical amputation, 5 cm below right knee present with exposing underlying soft tissue, bones, nerves, blood vessels and muscles. Base of the wound contains yellowish green foul smelling pus.*
- 3. Multiple abrasions of size ranging from 2.5 cm x 1 cm to 1.2 cm x 1 cm with black scab adherent present over an area of 7 cm x 5 cm over back of left elbow.*
- 4. Stitch lacerated wound of size 3 cm x 0.5 cm muscle deep present over medial aspect of left arm, 3 cm above left elbow.*
- 5. Contusion of size 13 cm x 12 cm, greenish yellow in color present over back of right arm and right elbow joint.*
- 6. Contusion of size 2 cm x 1.5 cm, greenish yellow in color present over fronto-lateral aspect of arm, 9 cm above right elbow.*
- 7. Swelling present over lower part of right forearm with underlying fracture of shaft of right with extravasation of blood in surrounding tissue.*
- 8. Abrasion of size 3 cm x 1 cm with black scab adherent present over front of right knee.”*

The cause of death has been opined in the following terms:-

***“OPINION: Death is due to septicemia and its***

*sequelae in a case of bilateral lower limb amputation. All injuries are ante-mortem in nature.”*

As per learned State counsel even *Dandas* have been recovered from both the petitioners.

Counsel for the petitioner would place heavy reliance upon an order dated 18.12.2015, passed by a Coordinate Bench of this Court in CRM No. M-42270 of 2015, whereby co-accused Gurbachan Singh @ Pammi has been granted benefit of bail.

In the considered view of this Court, the case of co-accused Gurbachan Singh @ Pammi is clearly distinguishable.

Even as per initial statement of Malkeet Singh, who later expired, the present two petitioners had attacked first in point of time and had inflicted injuries on account of being armed with *Dandas*. Thereafter, co-accused Jassu having sword in his hand had inflicted injury on the left leg. Malkeet Singh having raised an alarm, neighbors are stated to have come forth to rescue him and it is thereupon that Gurbachan Singh @ Pammi is stated to have inflicted leg and fist blows. Clearly, there would be no parity in the role attributed to the present petitioners as opposed to Gurbachan Singh @ Pammi.

Direct attribution is to the present petitioners and that too at the hands of none other than complainant, who subsequently died. *Prima facie* it is a case of causing injuries with a common intention. The seriousness of the injuries is depicted in the Post Mortem Report as noticed herein above.

In the considered view of this Court, the petitioners are not entitled to the benefit of bail, at this stage.

Petition, accordingly, is dismissed.

**(TEJINDER SINGH DHINDSA)**  
**JUDGE**

**27.01.2016**  
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