

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

CRM No.M-4501 of 2016 (O&M)

Date of Decision: 25.04.2016

Vir Singh @ Raju & others

... Petitioners

Versus

State of Haryana

... Respondent

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

Present:- Mr. A.S. Khara, Advocate for
Mr. Ashwani Talwar, Advocate for the petitioners.

Mr. Vivek Saini, DAG, Haryana.

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

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TEJINDER SINGH DHINDSA.J.

This order shall dispose of the present petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioners in case FIR No.67 dated 16.03.2015, under Sections 323/341/506/34 IPC (Sections 304/325 IPC added later on), registered at Police Station Bawani Khera, District Bhiwani.

While issuing notice of motion confined only qua petitioners No.1 and 2, the following order was passed by this Court on 08.02.2016:

“Petitioners have filed the instant petition under Section 438 of the Code of Criminal Procedure praying for anticipatory bail in FIR No.67 dated 16.3.2015, registered under Sections 323/341/506/34 of the Indian Penal Code and under Sections 304/325 of the Indian Penal Code (added later on) at Police Station Bawani Khera, District Bhiwani.

Learned counsel appearing for the petitioners would contend that during the course of investigation, the petitioners had been found to be innocent and it is only in pursuance to an application under Section 319 of the Code of Criminal

Procedure having been allowed that the present petitioners have been summoned as additional accused. Learned counsel would submit that the petitioners are ready and willing to join trial proceedings and as such, the prayer made in the present petition be accepted.

FIR came to be registered on the statement of Malkit 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.

Initially, FIR was registered under Sections 323/325/341/506/34 of the Indian Penal Code and subsequently, Section 304 of the Indian Penal Code was added.

Malkit Singh was, initially, taken to PGIMER Rohtak and thereafter admitted in Base Hospital, Delhi Camp on 20.3.2015 and expired on 24.3.2015 while undergoing treatment.

Having heard learned counsel for the petitioners, this Court is not inclined to accept the prayer qua petitioner No.3, namely, Jaswant Singh @ Jassu.

As per initial statement of Malkit Singh, who later expired, Jaswant Singh petitioner No.3 was having a sword in his hand and had inflicted injury on the left leg. Even though learned counsel would contend that such injury attributed to petitioner No.3 is not corroborated from medical evidence i.e. as per MLR, yet the post mortem report of deceased Malkit Singh conducted at Safdarjang Hospital, New Delhi wherein injuries upon the person of the deceased were recited, the same reflects “below knee surgical amputation, 5 cm below left knee with exposing underline soft tissue, bones, nerves, blood vessels and muscles. Base of the wound contains yellowish green foul smelling pus”. ling pus” The seriousness of the injury attributed by Malkit Singh (since deceased) to the present petitioner is depicted in the post mortem report as noticed hereinabove.

For the reasons recorded above, present petition qua

petitioner No.3 is dismissed.

However, insofar as petitioners No.1 and 2 are concerned, their case would be clearly distinguishable. As per statement of Malkit Singh deceased, it was Kuldeep Singh son of Chhattar Singh and Resham Singh son of Mohinder Singh who had attacked him first in point of time and had inflicted injuries with dandas. Thereafter, co-accused Jaswant Singh @ Jassu having a sword in his hand had inflicted injury on the left leg. Malkit Singh then having raised an alarm, neighbours are stated to have come forth to rescue him and it is thereupon that petitioners No.1 and 2 herein, namely, Vir Singh @ Raju and Gurdev Singh @ Bittu had inflicted leg and fist blows.

Notice of motion returnable for 25.4.2016 confined qua petitioners No.1 and 2 only.

In the meanwhile, in case petitioners No.1 and 2 put in an appearance before the trial Court on the date already fixed i.e. 15.2.2016, they would be entitled to interim bail subject to satisfaction of the trial Court.”

During the course of arguments today, it has gone uncontroverted that petitioners No.1 and 2, namely, Vir Singh @ Raju and Gurdev Singh @ Bittu have join trial proceedings and even admitted to bail subject to the satisfaction of the trial Court.

In view of the above and without making any observations on merit, the present petition is allowed. Order dated 08.02.2016 is made absolute.

Disposed of.

25.04.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**