

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

1. CRM-M No.10560 of 2017 (O&M)
Date of Decision: 23.05.2017

Vinod AtwalPetitioner
Vs
State of Punjab ...Respondent

2. CRM-M No.13669 of 2017

Nirmal Kaur @ NimmoPetitioner
Vs
State of Punjab ...Respondent

3. CRM-M No.13988 of 2017

Vishal @ ManiPetitioner
Vs
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Mandeep Singh Sachdev, Advocate
for the petitioner in CRM-M No.10560 of 2017.

Mr. Sandeep Arora, Advocate
for the petitioner in CRM-M No.13669 of 2017.

Mr. Rajesh Gupta, Advocate for
Mr. Gulzar Mohammad, Advocate
for the petitioner in CRM-M No.13988 of 2017.

Ms. Rimplejeet Kaur, A.A.G., Punjab.

Mr. Kuldeep V. Singh, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Vide this common order CRM-M Nos.10560, 13669 and

13988 of 2017 are being decided as all these petitions have arisen out of common controversy. For brevity, facts are being taken from CRM-M No.10560 of 2017.

[2]. Petitioners in the aforementioned three petitions, seek grant of regular bail in case bearing FIR No.171 dated 13.10.2016 registered under Sections 302/148/149 IPC at Police Station Division No.5, Jalandhar, District Jalandhar.

[3]. Brief facts are that the FIR was registered on the basis of statement suffered by Raj Kumar with the allegations that the complainant is an employee of Punjab State Electricity Board. Son of the complainant Munish Luthra was still bachelor and was doing the work of property dealer. On 12.10.2016 at about 9.00 p.m. son of the complainant after having his meal went to the locality for strolling. Complainant came to know that Ujjagar Singh and his family members were quarreling with his son. Complainant went to the spot, where Sanjay Luthra and Ashwani Kalra were present and they were trying to make them understand. When the complainant reached at the spot, Ujjagar Singh armed with Kirpan, Gaurav armed with knife, brother-in-law of Ujjagar Singh namely Pawan armed with *dang*, one person named Pahari armed with *dang*, one Sikh person wearing turban armed with *kirpan*, and Mani along with some other unidentified persons were standing there and arguing with

his son. Ujjagar Singh gave a *kirpan* blow which was warded off by son of the complainant by his right hand and the blow landed on his elbow and another blow of *kirpan* fell on the wrist of his right hand. Brother-in-law of Ujjagar Singh namely Pawan gave *dang* blow which landed on the left backside of the head and on right shoulder of son of the complainant. Pahari (petitioner) gave a *dang* blow which landed on the right side of shoulder of son of the complainant. Sikh person gave two *kirpan* blows on son of the complainant which landed on his back and backside of the head. Thereafter Nimmo wife of Ujjagar Singh raised a *lalkara* and exhorted her son Gaurav to stab in the stomach of the complainant. Gaurav gave a knife blow in the stomach of son of the complainant towards right side of his waist. Complainant along with Sanjiv Luthra and Ashwani Kalra tried to rescue his son from the clutches of the accused party. Thereafter assailants party went away from the spot. With these allegations, the FIR in question came to be registered.

[4]. As per allegations in the FIR, the injury attributed to the petitioner Vinod Atwal, who has been described as Pahari, was a *dang* blow on the right side of shoulder of son of the complainant. No role has been attributed to Vishal @ Mani in the FIR and the role attributed to Nirmal Kaur @ Nimmo was of exhortion/lalkara given to her son Gaurav, who inflicted stab

injury in the stomach of the son of the complainant.

[5]. Learned counsel for the petitioner(s) submitted that fatal injury has not been attributed to the petitioner(s). As per *post mortem* report the cause of death of Munish Luthra was '*haemorrhagic shock*' as per injuries and injury No.8 was sufficient to cause death in ordinary course of nature. Injury No.7 was '2 linear abrasion 8.5 cm and 8 cm long obliquely placed present in right scapular region'. The injury attributed to the petitioner Vinod Atwal was a *dang* blow on the right shoulder of son of the complainant. The injury No.6 as per MLR was a stitched wound 2.5 cm long present on right deltoid muscle near right shoulder joint.

[6]. Learned counsel for the petitioner Vinod Atwal submitted that even if, the said injury is attributed to the petitioner Vinod Atwal, the same would remain on questionable note inasmuch as injury No.6 was of stitched wound whereas *dang* blow was attributed to the petitioner Vinod Atwal.

[7]. I have heard learned counsel for the parties.

[8]. As per MLR of Johal Multispeciality Hospital, Jalandhar dated 13.10.2016 at 12.05 A.M. Injury No.7 was shown to be a lacerated wound 2.5 cm x 1 cm muscle deep present in the right deltoid muscle area. Clotted blood present, tenderness present.

[9]. Vide order dated 17.05.2017, Additional Sessions Judge, Jalandhar has noticed that three PWs were present, but they could not be examined as it was brought to the notice of the trial Court that the case titled '*State vs. Davinder Singh @ Gaurav*' arising out of the FIR in question was transferred to the Court by learned Sessions Judge by observing that both the cases be tried and decided by one Court. Since that case was adjourned for 24.05.2017 for securing presence of the accused Davinder Singh @ Gaurav by issuing the production warrant, therefore, the instant case was also adjourned for the said date. The witnesses were present and they were discharged.

[10]. Since presence of the accused in the connected case was sought to be secured by means of production warrants, therefore, the trial would take some time in its culmination. Complainant was partially examined on the date fixed and his cross-examination at the instance of accused Vinod Atwal has also been completed.

[11]. Keeping in view the cause of death and looking to the part attributed to the petitioner(s) in all the aforesaid three cases, At this stage, without adverting to the merits of the case, I deem it appropriate to grant concession of regular bail to them.

[12]. In view of above, all the three petitions are allowed.

Petitioner(s) namely Vinod Atwal, Vishal @ Mani and Nirmal Kaur @ Nimmo are ordered to be enlarged on bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

[13]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

[14]. A photocopy of this order be placed on the file of connected cases.

May 23, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No