

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

CRM-M-13945-2018

Date of decision:-25.5.2018

Bagicha Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.G.S. Kaura, Advocate
for the petitioner.

Mr.Saurav Khurana, DAG, Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Bagicha Singh – an accused in FIR No.76 dated 27.7.2017, under Sections 307, 323, 34 IPC, registered at Police Station Fattu DHINGA, Kapurthala.

Briefly stated, the facts of the case as per prosecution story are that FIR was recorded on the basis of statement of complainant Gurjant Singh son of Darshan Singh of Rai Sikh community, resident of village Rahela Haji, Police Station Fattu DHINGA, aged about 32 years, which he made to the police on 27.7.2017 stating therein that on 19.7.2017 when he had gone to his agricultural land for the purpose of irrigating paddy crop and at about 11:15, he went to sleep; that after midnight, he heard some noise and in the light of the electricity bulb, which was glowing, he observed Bagicha Singh son of his paternal aunt along with other two unidentified persons armed with sharp edged

weapons; that on a *lalkara* being raised by Bagicha Singh that the complainant should be caught hold off and taught a lesson for not giving money; Bagicha Singh gave a *datar* blow to complainant hitting him on eye brow of right side; that when the complainant stood up then one unidentified person person gave a datar blow hitting him behind head, whereas second unidentified person gave a baseball blow hitting him on right cheek, thereafter Bagicha Singh gave a datar blow hitting the complainant on left eye brow; that the complainant fell down; that all the three assailants caused injuries to him, while he was lying on the ground; that the complainant become unconscious and he was taken to hospital, where he was examined and his statement was recorded by police. The motive for the incident as stated by the complainant was that he and Bagicha Singh had been running a DJ business jointly and Bagicha Singh was having a suspicion that the complainant was keeping more money earned from the business. After registration of the FIR, the investigation in the case started. Accused were arrested in this case. The petitioner had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge, Kapurthala vide order dated 25.10.2017, as such, he has approached this Court with the same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

Learned counsel for the petitioner argued that the incident is said to have taken place on 19.7.2017, whereas information was given to the police on 27.7.2017 after delay of 8 days. Furthermore, the

complainant was admitted in the hospital on 21.7.2017 after two days of the incident when the doctor had opined that probable duration of injuries was within six hours; that the complainant had procured a favourable report from a private hospital. Furthermore, as per the allegations in the FIR, the petitioner was armed with a datar at that time, whereas in terms of recovery memo dated 3.9.2017, a *gandasi* has been recovered and as opined by the doctor the kind of weapon used for all the injuries was blunt, putting a big question mark over the truthfulness of the prosecution story.

After considering the rival contentions and going through the record, I find that the injuries attributed to the petitioner are simple in nature. The injury which had been declared dangerous to life has been attributed to other assailant. The petitioner is behind bars for a period of more than 7 months and 13 days. The guilt of the accused shall be determined during the trial, the conclusion of which is likely to take some time. The petitioner is not shown to be involved in any other criminal case, furthermore keeping in view the contentions put forward by learned counsel for the petitioner, I am of the view that the petitioner deserves to be granted concession of regular bail. Therefore, the petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Kapurthala, subject to the following conditions:

- (i) He shall appear in the Court on each and every date of hearing.

(ii)He shall not give any threat or intimidation to the prosecution witnesses.

(iii)He shall not leave India without prior permission of the Court.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

25.5.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No