

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

Decided on: 03.07.2018

1. CRM-M No.20826 of 2018

Harpreet Singh

....Petitioner

Versus

State of Haryana

....Respondent

2. CRM-M No.23849 of 2018

Govind

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. P.S. Sekhon, Advocate
for the petitioner (in CRM-M No.20826 of 2018)

Mr. J.S. Gill, Advocate
for the petitioner (in CRM-M No.23849 of 2018)

Mr. Naveen Sheoran, DAG, Haryana.

Mr. J.S. Jaidka, Advocate for the complainant.
(in both the petitions)

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners pray for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.328 dated 06.12.2017, for offence punishable under Sections 148, 149, 323, 324, 325, 326, 307, 341, 506, 427 of the Indian Penal Code (in short 'IPC') and 25/54/59 of the Arms Act, registered at Police Station Sadar Dabwali, District Sirsa.

Counsel for the petitioners, at the very outset, have submitted that 03 of the co-accused namely Vijay, Shyam and Navdeep have been granted the concession of regular bail vide order dated 24.05.2018 passed in CRM-M No.15721 of 2018 and CRM-M No.20339 of 2018, by passing the following order:-

“Briefly stated, facts of the case, as per the prosecution story are that on 6.12.2017, complainant Gurdev Singh s/o Bhag Singhr/o village Jandwala Jatan, aged about 50 years alongwith Joginder Singh, Gurjeet Singh, Sukhwinder Singh and Jaswant Singh had gone to attend a hearing in the Court at Dabwali in a Zen car and thereafter were returning to village Jandwala Jatan. At about 2.00 P.M. when they had reached near village Khuyian Malkana, three vehicles came there and stopped near their car. Jagsir Singh, Sardool singh, Mangal Singh Sohan Singh, Gurmeet Singh, Harpreet Singh, Maghar Singh, Balkaran Singh, Jaskaran Singh, Harjinder Singh, Gagandeep Singh alongwith 10-12 un-known persons came out of those vehicles. They damaged the glass panes of car of the complainant and started beating up the complainant and persons accompanying him. Gurmeet Singh gave a sword blow to the complainant hitting him on his leg. Harpreet Singh gave a lathi blow to the complainant hitting him on his shoulder. Three persons with muffled faces caught hold of the complainant and pushed him down. However, the complainant hit himself against the trees. Thereafter, all the accused fled from the spot in their respective vehicles. Injured were taken to CHC, Odhan, from where they were referred to General Hospital Sirsa. Formal FIR in the matter was recorded, on the basis of statement of complainant Gurdev Singh.

Accused Harpreet Singh, Lovepreet, Shyam Lal, Vijay and Gobind were arrested in this case.

Accused Lovedeep Singh as well as accused Vijay and Shyam Lal @ Shyama had moved applications for grant of regular bail before the Court of Sessions, but those were dismissed, as such they have approached this Court by way of filing present petitions for grant of similar relief.

I have heard learned counsel for the petitioners, learned State counsel, besides going through the record.

As far as accused Vijay and Shyam Lal @ Shayama are concerned, they are not named in the FIR. No specific injury is attributed to them. During the investigation of the case, Section 326 IPC was added since fracture on the person of Joginder Singh was detected and Gurjeet Singh had been stabbed by Sardool Singh in the back, said injury was found to be dangerous to life, therefore Section 307 IPC was added. Names of accused Vijay and Shyam Lal cropped up during statements of co-accused. Dandas have been recovered from their possession.

As far as accused, Lovedeep Singh is concerned, after his arrest danda has been recovered from him. The injury which was declared to be grievous in nature and dangerous to life, are not attributed to any of the petitioners. Name of Lovedeep Singh was also nominated in statements of the co-accused. Though challan against the accused is stated to have been filed on 8.2.2018. but it is at preliminary stage and its conclusion is likely to take some time. The guilt of the accused shall be determined during the trial. As such I find that it shall be in the fitness of things, if the petitions are accepted. Therefore, both the petitions are allowed and the petitioners are directed to be released on bail on furnishing of surety bonds and personal bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Sirsa, subject to the following conditions:-

i) that the petitioners shall appear in the Court on each and every date of hearing;

ii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and

iii) that the petitioners shall not leave India without the prior permission of the Court and shall surrender their passports, if they have got one, otherwise to furnish affidavit in that regard.

In addition to this 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 petitioners violate any term and condition on which the bail has been granted to them, this order shall be liable to be withdrawn.”

Counsel for the petitioners have further submitted that both the petitioners namely Harpreet Singh and Govind were arrested on 20.12.2017 and the challan has already been presented and the prosecution has cited 35 witnesses, however, no prosecution witness has been examined, so far as the supplementary challan against co-accused Sardool Singh, who is the main accused, is yet to be presented. It is further submitted that the injuries under Section 307 IPC were attributed to co-accused – Sardool Singh, who has already been granted the concession of interim anticipatory bail vide order dated 19.03.2018 passed in CRM-M No.8396 of 2018. The operative part of the said order is reproduced as under:-

“Sh. Kishori Lal, DSP Dabwali has appeared. He states that a DDR was recorded as regards counter version set up by the present petitioner which is being

enquired into. Though challan has been filed against the accused arrested in the main F.I.R. but is not so with regard to the DDR since the investigating officer was not aware of the whereabouts of the petitioner.

Learned counsel for the petitioner submits that he is admitted in Amandeep Hospital and Clinic, Model Town, G.T. Road, Amritsar.

Learned State counsel was to file formal reply to the petition but that has not been so done. He seeks some more time to file the reply. Let the needful be done by the next date of hearing.

Sh. Kishori Lal, DSP is directed to ensure that petitioner Sardool Singh who is stated to be admitted in Amandeep Hospital and Clinic is joined in the investigation in the main F.I.R. as well in the DDR by next date of hearing and report with regard to DDR be also submitted and intimation in that regard be given to the Court till next date of hearing. Adjourned to 7.5.2018. If, in the meanwhile, petitioner Sardool Singh is arrested, he be released on interim bail to the satisfaction of the Investigating Officer/Arresting Officer.”

Counsel for the petitioner – Govind has also submitted that he has been arrested on the basis of the disclosure statement of co-accused and the recovery of a danda has been effected from him and he has been similarly situated with the other accused, who have been granted the concession of regular bail.

Counsel for the State, on instructions from ASI Krishan Kumar and assisted with counsel for the complainant has not disputed the fact that the aforesaid co-accused of the petitioners have already been granted the concession of regular bail and the main accused i.e. Sardool Singh has also been granted the concession of interim

anticipatory bail, but opposed the prayer for bail.

Without commenting anything on merits of the case and considering the fact that the petitioners are in judicial lock up since 20.12.2017; investigation is complete; till date no prosecution witness has been examined; the co-accused of the petitioners have already been granted the concession of bail and conclusion of the trial is likely to take some time, the present petitions are allowed and the petitioners are directed to be released on bail on their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioners are found involved misusing the concession of bail, in any manner.

03.07.2018
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No