

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

**CRM-M No. 5786 of 2019
Date of Decision:.11.04.2019**

Gurmej Singh Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Salil Dev Singh Bali, Advocate for the petitioner.
Mr. C.L.Pawar, Sr. DAG, Punjab.
Mr. G.S.Jossan, Advocate for complainant.

MAHABIR SINGH SINDHU, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C') for grant of bail pending trial to the petitioner in case FIR No.120 dated 26.10.2017, under Sections 307,323, 324,341,148 and 149 of the Indian Penal Code, 1860 (for short 'IPC') (Section 302 IPC added later on), registered at Police Station Lakho Ke Behram District Ferozepur.

As per the FIR, complainant Bishamber Singh made a statement to the police to the effect that on 24.10.2017 at about 05:00 pm, he was ploughing field by tractor and his father Makhan Singh was sitting nearby. Gurmej Singh son of Dalip Singh armed with gandasa, Kulwant Singh son of Dalip Singh armed with sota, Sukha Singh son of Surjit Singh armed with iron rod, Sona Singh son of Bahal Singh armed with sota, Surjit Singh son of Bahal Singh armed with soti, Manjit Singh son of Bhagwan Singh armed with dang, all residents of Megha Rai Hitad, came their raising lalkaras and encircled his father Makhan Singh. Then, he stopped the tractor and ran

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towards them making noise. On this, Gurmej Singh (present petitioner), with an intention to kill gave a gandasa blow on his father's left side of head and Kulwant Singh hit him on the left side of his forehead with sota and his father fell down. Sukha gave a rod blow on the back of his father, Manjit Singh gave a dang blow on the knee of left side of leg and right shoulder of his father. In order to save his father, he came forward, but accused gave beatings to him also. On hearing noise, his uncle Lachman Singh, who was working in nearby fields and other co-villagers came running at the spot and aforementioned accused persons ran away from the spot along with their respective weapons.

It is contended by learned Counsel for the petitioner that the petitioner is in custody since 17.11.2017 and charges were framed on 29.08.2018 and till date out of a total 14 prosecution witnesses only 6 (six) have been examined. Further contends that there is a cross version filed at the instance of the petitioner as a complaint in this regard is pending before the Court of competent jurisdiction. Also contends that there is unexplained delay of two days in lodging the present FIR as the occurrence had taken place on 24.10.2017, but the FIR was registered on 26.10.2017 and Makhan Singh, injured died after four days of occurrence i.e on 28.10.2017.

The above factual position is duly acknowledged by learned State counsel, on instructions from ASI Gurcharan Singh, and the same is not controverted by learned counsel for the complainant also.

Learned State counsel as well as the counsel for the complainant have opposed the bail application on the ground that it is the petitioner who attributed the main injury inflicted with '*gandasa*' and during investigation, the weapon of offence was recovered. Also contended that

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cross version of the petitioner made to police was found to be incorrect and, therefore, no further action on the basis of DDR No.25 dated 28.10.2017.

Heard both sides and perused the record.

Undisputedly, the petitioner is in custody since 17.11.2017 and out of total 14 prosecution witnesses only six have been examined till date. On 13.02.2019 also, the position was same and now the case is pending for 01.05.2019. It seems that prosecution is delaying the matter to prolong the custody of the petitioner. There is delay of two days in lodging the FIR and it is note worthy to mention here that FIR in the present case has been registered on the basis of statement made by Bishamber Singh i.e son of the deceased, and no plausible explanation is coming forward for delay in lodging the FIR.

In view of the above factual position, further incarceration of the petitioner would serve no purpose therefore, this Court deems it appropriate if the concession of bail is granted to the petitioner. Consequently, this petition is allowed and petitioner-Gurmej Singh is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court.

The above observations may not be construed as an expression of opinion on merits of case.

11.04.2019

mamta

**(MAHABIR SINGH SINDHU)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>