

**In the High Court for the States of Punjab and Haryana
at Chandigarh**

CRM-M No.50903 of 2018

Date of Decision:04.04.2019

Hapreet Singh @ Happy

....Petitioner

Vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Ms. Satwant Mehta, Advocate
for the petitioner.

Ms. Rashmi Attri, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL.J. (Oral)

The petitioner seeks grant of regular bail in case registered vide FIR No.163 dated 04.11.2014, under Sections 302, 452, 326, 324, 323, 148, and 149 of IPC 1860, registered at Police Station, Harike, District Tarn Taran.

The FIR was lodged at the instance of Mulakhjit Singh wherein he has alleged that on 03.11.2014 when he along with his brother Gurlal Singh and father Pratap Singh were sleeping in his house then at about 11:30 p.m. there was a noise outside and when his father Pratap Singh went out in the courtyard to check out the same, Kalu armed with Kirpan, Joga armed with Dattar along with 3-4 unidentified persons who were also armed with Kirpan, Dattar and base ball bats were found standing in the courtyard who asked complainant's father to send Gurlal Singh out. When the complainant's father tried to plead with them and asked them to go back, Kalu gave a Kirpan blow on the forehead of the complainant's father. Upon hearing the alarm raised by complainant's father, complainant's brother Gurlal Singh came out of room and Kalu gave a blow with Kirpan hitting the left side of head of Gurlal Singh. Joga Singh also gave two blows to Gurlal Singh with Dattar hitting his left hand's fingers and elbow. Three

unidentified persons also caused injuries with their weapons to the brother and father of the complainant, which landed on the chest, shoulder, ankles and legs of Gurlal Singh. Upon alarm raised by the complainant party, the assailants ran away along with their weapons.

It is further the case of the prosecution that on account of injuries sustained by Gurlal Singh he succumbed to his injuries.

Learned counsel for the petitioner has submitted that he is not named in the FIR and is sought to be implicated on the basis of supplementary statement of the complainant recorded on 04.11.2014 i.e. on the day of lodging of FIR but in the said supplementary statement the accused is described as Happy son of Harbhajan Singh, who is alleged to be armed with Dattar and is stated to have caused injury on the left ankle but a closer scrutiny of the said supplementary statement would reveal that there is over-writing in the parentage of the said Happy and that earlier the name of the father of Happy was written Bittu which was later on changed to Harbhajan.

The learned counsel for accused in order to further hammer forth his argument has drawn the attention of this Court to the disclosure statement made by co-accused Joga wherein he is stated to have named one of his co-accused as Happy son of Bittu. It has thus been submitted that identity of the petitioner is seriously in doubt and apparently an attempt has been made to falsely implicate the petitioner by changing the parentage from Bittu to Harbhajan Singh.

Opposing the petition, the learned State counsel has submitted that the supplementary statement was recorded on the very day when the FIR was

lodged and in these circumstances, it cannot be said to be a highly suspicious circumstance. It has further been submitted that some errors do occur at the time of preparing documents during the course of investigation and some correction made in the supplementary statement would not mean that the entire case of the prosecution is false or that concocted version has been put forth. It has further been informed that while the co-accused Kalu and Joga already stand convicted, the present petitioner has been declared Proclaimed Offender and could not be arrested. It has further been informed that the petitioner has been behind bars since last 2 years, 2 months and 15 days and as on day only 7 out of 20 PWs have been examined. He is not stated to be involved in any case as per custody certificate furnished today by the learned State counsel.

In view of the aforestated facts and circumstances and without commenting anything as regards the identity or parentage of the petitioner and while bearing in mind that the petitioner has been behind bars since last more than 2 years and the trial in its normal course is not likely to conclude shortly as till date only 7 PWs out of the cited 20 PWs have been examined, in my opinion no useful purpose would be served by further detaining the petitioner behind bars. The petition, as such is accepted and petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

04.04.2019
Ali

(Gurvinder Singh Gill)
Judge

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No