

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

(201)

CRM-M-12363-2020

Date of Decision: September 09, 2020

Pargat Singh alias Pagga

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Gursharan Kaur Mann, Advocate, for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

Mr. Mansur Ali and Mr. Imran Ali, Advocates,
for the complainant.

HARSIMRAN SINGH SETHI, J.(ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.182 dated 25.08.2018 under Sections 302, 506, 148 and 149 IPC registered at Police Station Jandiala, District Amritsar Rural.

Learned counsel for the petitioner argues that the petitioner has wrongly been involved in the present case which is clear from the allegations alleged in the FIR. Learned counsel for the petitioner submits that as per the FIR, petitioner Pargat Singh @ Pagga was stated to be armed with '*kirch*' and gave a blow with the said weapon on the back side of the head of the deceased, namely, Kulwinder Singh. Learned counsel for the petitioner draws the attention of this Court to the allegations in the FIR to

contend that one Sanjeev Kumar @ Happy, who was stated to be armed with ice pick has also been alleged to have given a blow on the head of the deceased Kulwinder Singh. As per the submission of the learned counsel for the petitioner that according to the postmortem report, there was only one injury on the head of the deceased whereas two persons have been attributed injuries on the head of the deceased with two different weapons, hence, prima facie the allegations in the FIR are incorrect and the petitioner is entitled for the grant of regular bail.

Learned counsel for the petitioner further submits that the injury which has been noticed as injury No.1 in the postmortem report, cannot be inflicted by a '*kirch*' i.e. the weapon which has been attributed to the petitioner and therefore, the petitioner is innocent and is entitled for the grant of regular bail.

Learned counsel for the respondent-State submits that keeping in view the injury No.1, as noticed in the postmortem report, is on the head of the victim and correlates with the injury, which has been attributed to the petitioner. Learned counsel for the respondent further submits that injury attributed on the head of the victim by another person namely Sanjeev Kumar @ Happy, was not found in the MLR or in the postmortem report and therefore, it is the petitioner, who has inflicted the injury No.1, which has been found on the head of the deceased in the postmortem report.

Learned counsel for the complainant concedes that though in the allegations in the FIR, two injuries on the head of the victim have been attributed to two different co-accused but only one has been found in the postmortem report and the injury No.1, which has been mentioned in the postmortem report, keeping in view the allegations alleged against the

petitioner, in the FIR, has rightly been attributed to the petitioner only and therefore, the petitioner is not entitled for the concession of bail.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is matter of record that as per FIR, petitioner i.e Pargat Singh @ Pagga has been attributed injury on the back side of the head of the victim Kulwinder Singh with '*kirch*' and the co-accused Sanjeev Kumar @ Happy stated to be armed with ice pick has also been alleged to have hit the victim on the head with the said weapon. The injury No.1 inflicted on the head of the victim, which has been mentioned in the postmortem report prima facie shows that out of the two accused, one has caused the injury on the head of the deceased. The police in the investigation has found that it was the petitioner, who has inflicted the injury No.1 in the postmortem report, which has been annexed alongwith the petition as Annexure P-1.

That being so, there is a specific allegation against the petitioner in the FIR and a corresponding injury has also been found on the person of the deceased. This is not the stage where the findings can be recorded by this Court, while considering the bail application, whether the injury No.1 found on the head of the deceased in the postmortem report, was actually inflicted by the petitioner or the other co-accused Sanjeev Kumar @ Happy so as to grant the benefit of bail to the petitioner. On this aspect, finding can only be recorded by the trial Court after appreciating the evidence as recorded, hence, the argument raised on behalf of the petitioner cannot be accepted at this stage so as to enlarge him on bail.

With regard to the arguments of learned counsel for the petitioner that the injury No.1 mentioned in the postmortem report cannot be

inflicted with the '*kirch*', which weapon has been attributed to the petitioner, it is again reiterated that this Court cannot opine or give finding to the said effect at this stage. Nothing has come on record to support the said argument of the learned counsel for the petitioner so far. It is the doctor, who will be examined during the trial, who will render the opinion whether the injury No.1 which has been found on the head of the deceased, can be inflicted with the '*kirch*' or not. The stage of trial is such that even the complainant is yet to be examined.

At this stage, keeping in view the facts and circumstances and keeping in view the gravity of the allegations, the benefit of bail cannot be extended to the petitioner on the basis of the arguments which have been raised in the present petition, as noticed above.

No ground is made out to grant the benefit of regular bail to the petitioner.

Dismissed.

Anything stated in this order will not be treated as an expression of the merits of the case.

September 09, 2020
harsha/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

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