

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-13169 of 2020

Date of Decision: 19.06.2020

Gursahib Singh alias Sahib

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Jasdeep Singh Gill, Advocate
for the petitioner(s).

Mr. Surinder Pal Singh Tinna, Additional
Advocate General, Punjab for the respondent.

Mr. Rakesh Kumar, Advocate
for the first informant.

Anil Kshetarpal, J.

The petitioner has filed this petition under Section 439 Cr.P.C. for grant of bail pending trial in a case arising from FIR No. 51 dated 18.11.2016, registered under Sections 302, 323, 324, 148 & 149 IPC at Police Station Khem Karan, District Tarn Taran.

The case of the prosecution has been noticed in detail by a co-ordinate Bench while deciding bail application of Raj Singh which is extracted as under:

“Briefly stated the facts relevant for disposal of the petition are that the above-said FIR was registered on statement of Surjit Singh. In his statement Surjit Singh alleged that he has three brothers Karaj Singh, Jaimal Singh and Lakha Singh and doing

agricultural work. His niece Amarjit Kaur daughter of Jaimal Singh was married with Swarn Singh son of Mohinder Singh about 14 years back and two children, one daughter named Arpandeeep Kaur aged about 13 years and one son named Husanpreet Singh aged about 11 years, were born out of the wedlock. Her husband died around 5 years back. About 3 months earlier Amarjit Kaur was thrown out from her matrimonial house along with her children by her in-laws and nothing was given to her. 5 acres of land stood in the name of her son but they were not being allowed to cultivate the same. Mohinder Singh her father-in-law did not give any share to Amarjit Kaur or her children from the remaining property and transferred the same in the name of his other four sons Gursahib Singh, Raj Singh, Mehtab Singh and Nirmal Singh. Mohinder Singh admitted in the presence of respectables on number of occasions that he will give 5 acres of land and share in residential house to Amarjit Kaur but whenever Amarjit Kaur went there she was thrown out from the house. On 18.11.2016, he along with his brothers Jaimal Singh and Lakha Singh, Chamkaur Singh s/o Karaj Singh and Gurbhej Singh s/o Jaimal Singh went to drop Amarjit Kaur and her children to her matrimonial home. At about 12:30 p.m. when they reached her matrimonial home, Gursahib Singh armed with Datar, Raj Singh armed with Kirpan, Mohinder Singh, Nirmal Singh, Manjinder Kaur and Balwinder Kaur all armed with Dang and

Kuldip Kaur empty handed came out after raising lalkaras. Mohinder Singh raised lalkara that they be not allowed to escape and taught a lesson for demanding share in the property. His brother Jaimal Singh approached him for clarification on which Raj Singh gave Kirpan blow to him which fell on fingers of his left hand. Mehtab Singh gave Dang blow to Jaimal Singh which hit on the eyebrow of his right eye. Mohinder Singh gave two dang blows on Jaimal Singh hitting him on his waist and his right shoulder. When his brother Lakha Singh came forward to rescue him then Gursahib Singh gave Datar blow on the backside of his head due to which he fell down on the ground. When he went forward to save them, Mehtab Singh gave Dang blow on his right wrist and Nirmal Singh gave Dang blow which hit on his left bicep. When his niece Amarjit Kaur came forward, Kuldeep Kaur caught her from her hair and Balwinder Kaur gave Dang blow on her left wrist. Manjinder Kaur gave Dang blow on her back. Mohinder Singh, Mehtab Singh and Nirmal Singh inflicted Dang blows to Gurbhej Singh hitting him on his right bicep and right thigh and Chamkor Singh was also hit on his upper back. When they raised alarm, all the assailants fled from the spot with their respective weapons. Lakha Singh died due to injuries sustained by him.”

Learned counsel appearing for the petitioner has submitted that the petitioner is in custody since 07.12.2016 and thus, he has already

suffered incarceration for a period more than three years and six months. He further submitted that the first informant came along with five/six persons to the residence of the petitioner and others. The incident took place at the residence of the petitioner and, therefore, members of the other party were aggressors. The trial of the case is progressing at snail's pace. On completion of the investigation, police report under Section 173 Cr.P.C. was filed in the trial Court on 17.01.2017, whereas the charges were framed on 21.07.2017. After the examination of three prosecution witnesses in chief, the Public Prosecutor on 05.12.2018 sought time from the Court to explore the possibility of moving an application under Section 319 Cr.P.C. However, the Public Prosecutor finally moved the application after a period of 11 months by availing 18 opportunities. The application 319 Cr.P.C. was allowed and four persons have been summoned as additional accused who have been granted bail. He submitted that now the trial would have to start afresh.

On the other hand, learned counsel representing the State, duly assisted by the counsel appearing for the first informant, has submitted that as per the case of the prosecution, it is the petitioner who had given fatal blow to deceased – Lakha Singh with his “*Dattar*” and, therefore, he should not be granted the concession of bail.

This Court has considered the submissions of learned counsel for the parties and with their able assistance, gone through the case file. The petitioner is in custody for a period of more than three years and six months. From the perusal of the record, it is apparent that the petitioner, apart from involvement in the present case, does not have any criminal past. It is also

prima facie established from the reading of the FIR that the first informant along with five/six persons came to the residence of the petitioner and demanded share in the immovable property for their niece and her children.

Keeping in view the aforesaid facts and without commenting merits of the case, it is considered appropriate to grant the concession of regular bail to the petitioner. The trial of the case is likely to be further delayed on account of spread of novel coronavirus.

Hence, the petitioner be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate.

Petition is allowed.

(Anil Kshetarpal)
Judge

June 19, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No