

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

213

**CRM-M-13580-2019
Date of decision : 13.03.2020**

Raj Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Jaspal Singh Pannu, Advocate
for the petitioner.

Mr. Arun Kaundal, DAG, Punjab
for the respondent-State.

Mr. Rakesh Kumar, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.51 dated 18.11.2016 registered under Sections 148, 149, 302, 323 and 324 of the Indian Penal Code, 1860 at Police Station Khem Karan, District Tarn Taran.

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 Arpandeep 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 respecables 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.

The police investigated the case and found Nirmal Singh, Balwinder Kaur and Kudip Kaur to be innocent and on completion of investigation filed charge-sheet against Mohinder Singh, Raj Singh and Gursahib Singh. Supplementary charge-sheet was filed against Manjinder Kaur. Accused-Mohinder Singh died during trial. The petitioner being in custody since 21.11.2016 has filed present petition for grant of regular bail.

The petition has been opposed by learned State Counsel in terms of status report filed by way of affidavit of Sh. Kuldeep Singh Chahal, IPS, Senior Superintendent of Police, Tarn Taran, District Tarn Taran.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and gone through the relevant record.

Learned Counsel for the petitioner has argued that the

petitioner has been falsely implicated in the case. The petitioner is alleged to have inflicted injury with Kirpan on the person of Jaimal Singh which was declared to be simple. The petitioner is not alleged to have caused any injury to deceased-Lakha Singh. Injury inflicted on the head of Lakha Singh which proved to be fatal is attributed to co-accused-Gursahib Singh. The petitioner is in custody since 21.11.2016. After summoning of additional accused de-novo trial is to commence and the trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted bail.

On the other hand, learned State Counsel and learned Counsel for the complainant have argued that the petitioner actively participated in the commission of crime and the petitioner along with his co-accused deprived Amarjit Kaur widow of Swaran Singh of her rightful claim to cultivate the land and reside in her matrimonial home and murdered Lakha Singh and caused injuries to others. Allegations against the petitioner are serious and he does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

In the present case, the petitioner along with his co-accused is alleged to have murdered Lakha Singh and caused injuries to others. The petitioner is claimed to be armed with Kirpan and is stated to have given blow to Jaimal Singh. Injury caused on the person of Jaimal Singh was declared to be simple. The petitioner is not alleged to have caused any injury to deceased-Lakha Singh and injury on the head of deceased-Lakha Singh which proved to be fatal is attributed to co-accused Gursahib Singh. The petitioner is in custody since 21.11.2016.

After summoning of additional accused, recording of the prosecution evidence is yet to commence. Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, the role attributed to him, the fact that trial is likely to take long time, the period of custody of the petitioner and also the fact that no useful purpose will be served by detention of the petitioner in custody as his presence during trial Court can be secured otherwise also than only by detention in custody but without commenting on the merits of the case, I am of the considered view that the facts and circumstances of the case warrant extension of concession of regular bail to the petitioner.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Tarn Taran subject to the condition that the petitioner will not interfere in possession of the Amarjit Kaur and her children over the land and portion of the residential house which had fallen to their share and in case of any such interference on the part of the petitioner, his bail shall liable to be cancelled on filing of the application by the prosecution in this regard.

13.03.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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