

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

CRM-M-13466-2020(O&M)

Date of decision:-15.7.2020

Mahinder Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.S.D.S. Bali, Advocate
for the petitioners.

Mr.M.S. Nagra, AAG, Punjab.

Mr.Nakul Sharma, Advocate
for the complainant.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioners Mahinder Singh aged about 55 years and his son Raj Singh, aged about 27 years, both of them being accused in FIR No.32 dated 15.3.2019, under Sections 302, 341, 148, 149 IPC, registered at Police Station Guruhar Sahai, District Ferozepur.

Briefly stated, the facts of the case as per the prosecution story are that criminal machinery in this case was set into motion by complainant Satnam Singh son of Diwan Singh, aged about 40 years,

resident of village Panje Ke Hithar, Police Station Guruhar Sahai, who in his statement made to the police of Police Station Guruhar Sahai on 15.3.2019 stated that on the said day at about 10:00 a.m. in the morning, he along with his younger brother Shingara Singh had gone to their fields; he stayed back, whereas Shingara Singh started return journey to the village; when he had reached near fields of Mahinder Singh, then Mahinder Singh son of Milkha Singh having a FAURHA, his son Raj Singh having a DAANG along with three unidentified persons started abusing Shingara Singh; Mahinder Singh raised a lalkara that Shingara Singh should be caught hold of since they were slowly taking possession of their land, which has a path going to their house, causing harassment to them; feeling threatened Shingara Singh started running away, whereas all the assailants followed him; Shingara Singh fell down, then all the assailants started beating him up; the complainant raised alarm; as a result of assault, Shingara Singh lost his consciousness, then all the assailants ran away; the complainant removed Shingara Singh to a path near Government school and after arranging for a vehicle took him initially to Pawan Aggarwal Hospital, Guruhar Sahai from where keeping in view his serious condition, he was referred to hospital at Ferozepur; while going there, Shingara Singh had expired; the complainant deposited the dead body of Shingara Singh in the mortuary of Civil Hospital, left his family members there and then accompanied by Karnail Singh was going to Police Station Guruhar Sahai for lodging the report; on the way, he met the police party and got recorded his statement, which formed basis for recording of formal FIR. The accused were arrested in this case on

21.3.2019. They had filed an application for regular bail in the Court of Sessions but the same was dismissed by learned Additional Sessions Judge, Ferozepur vide order dated 28.2.2020, therefore, the petitioners have approached this Court for grant of similar relief.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

In this case, as per the prosecution story Mahinder Singh was armed with a FAURHA, whereas Raj Singh was armed with a DAANG; they were accompanied by three unidentified persons. However, those weapons are not said to have been used in the incident and only kick blows are said to have been given. The two injuries found on the person of the deceased as per postmortem report were lacerated wound 2.5 x 1 cm on anterior surface of left index finger at PIP point with dislocation at PIP joint and lacerated wound 3 x 3 cm on left side of scrotum with left testes protruding out. With five assailants, one of them being armed with FAURHA and other with DAANG, FAURHA and DAANG being not used in the incident and only two injuries having been found on the person of the injured, that too on account of kick blows and further only two assailants namely Mahinder Singh and Raj Singh have been challaned does give a rise to a doubt in the mind about the truthfulness and veracity of the prosecution story. The trial against the accused is going on, during the course of which the statements of the eye-witness are said to have

been recorded. Thus there are no chances of the accused trying to give any threat or inducement to the eye-witnesses. Keeping in view, all the facts and circumstances of the case, I find that the petition deserves to be accepted.

Accordingly, the petition is allowed. The petitioners be admitted to bail during the pendency of the trial, subject to their furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Ferozepur, subject to the following conditions:

- (i) they shall appear in the Court on each and every date of hearing;
- (ii) they shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) they shall not leave India without prior permission of the Court and shall surrender their passports, if they have got ones, otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioners do not abscond and interfere in the trial.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

15.7.2020

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(H.S.MADAAN)

JUDGE