

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

CRM-M-14325-2020 (O&M)

Date of decision: 24.07.2020

Surinder Masih

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. R.K. Arya, Advocate for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner Surinder Masih son of Barkat Masih, aged about 65 years, an accused in FIR No.0085 dated 10.12.2019, for offences under Sections 323, 324 and 34 IPC with offence under Section 326 IPC added later on, registered with Police Station Bhaini Mian Khan, District Gurdaspur.

Briefly stated facts of the case as per prosecution version are that, criminal machinery in this case was set into motion by complainant Surinder Ram son of Dharamo Ram, resident of Phero Chechi, aged about 27 years, a labourer by avocation, who in his statement made to the police stated that on 05.12.2019 at 8.00 AM, he left his house for going to work; while he was passing through the street near the house of Surinder Masih (present petitioner) then Surinder Masih armed with a datar, his son

Chaman Masih armed with a dang, another son Satpal Masih @ Sona armed with a dang, wife Preeto having a dang were standing in the street. Satpal Masih raised a lalkara that the complainant should be caught hold of and taught a lesson for passing through their street; saying that Surinder Masih gave a datar blow to the complainant hitting him on left wrist, Chaman Masih gave a dang blow to him hitting him on right thigh; the complainant raised alarm, which attracted Sheetal Kaur wife of Balbir Singh, who tried to intervene to save the complainant; then Preeto gave a dang blow to Sheetal Kaur, hitting her on left wrist; Satpal Masih gave a dang blow to Sheetal Kaur hitting her on left knee. When Balbir Singh son of Puna Singh resident of the village reached at the spot, then seeing him, all the assailants ran away therefrom. The motive for the incident was that Surinder Masih was stopping the complainant party from passing through the street and for that reason, he along with his co-accused had caused injuries to the complainant and Sheetal Kaur. On the basis of such statement, formal FIR was registered. Accused was arrested in this case.

The petitioner had moved a petition for regular bail before Addl. Sessions Judge, Gurdaspur, which was, however, dismissed on 18.02.2020. Thereafter, he had approached this Court for grant of regular bail by filing a petition bearing CRM-M-11145-2020, however, that petition was withdrawn by him on account of some technical defect in drafting of the petition. While allowing the petitioner to withdraw the said petition, he was granted liberty to file fresh one after removal of the defect. Now he has filed fresh petition for grant of regular bail, which

request is being opposed by the State counsel.

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

Learned counsel for the petitioner has argued that he and his family members have been involved in this case wrongly. As a matter of fact, there is a dispute with regard to passage between the complainant party and accused party; the accused party had purchased plots measuring 04 marls each, total 08 marlas from one Nasir Masih and Palwan in the year 1997; the complainant had been trying to carve out a passage from that plot forcibly regarding which panchayat were convened number of times but the dispute could not be resolved. As a matter of fact, the petitioner himself had suffered an injury on head, which was of grievous nature at the hands of complainant party. MLR of the petitioner in that regard is attached as Annexure P-2. The petitioner is stated to be behind bars for about 06 months.

Though, the petition is being resisted by the State counsel, but I find that keeping in view various reasons including the one of petitioner/accused himself having suffered injuries on his person, which have not been explained by the complainant party. In that way, there is a version as well as cross version of the incident and only during the trial, it can be found out as to which party was aggressor. Though, the challan is stated to have been filed but charge is yet to be framed. The conclusion of trial is likely to take considerable time. The injuries on the person of the injured are on non vital parts. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail

bonds and surety bonds to the satisfaction of trial Court/CJM/Duty Magistrate, Gurdaspur, subject to the following conditions:-

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

24.07.2020
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No