

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

212

CRM-M No.17301 of 2020

Date of Decision: September 9th, 2020

Bhupinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Bhrigu Dutt Sharma, Advocate
for the petitioner.

Mr. B.S. Sewak, Additional Advocate General, Punjab.

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASI, J. (ORAL)

Petitioner has approached this Court for grant of regular bail in FIR No.73 dated 07.11.2019 registered under Sections 302, 323, 34 IPC at Police Station Singh Bhagwantpura.

It is the contention of learned counsel for the petitioner that although the injuries, which have been attributed to the petitioner with a *danda*, are on the head of the complainant but both of these injuries have been found to be simple in nature. His assertion is that the petitioner is in custody since 18.11.2019, with the trial not proceeding because of an application filed under Section 319 Cr.P.C. for summoning Harnek Singh, which is under consideration, the continuation of the petitioner in custody would not serve any useful purpose. He, therefore, prays that the petitioner be granted the concession of bail.

On the other hand, learned counsel for the State, submits that the petitioner, who has although been attributed two *danda* blows and said to be armed with the same but the recovery of the *gandasa*, which is a fatal weapon, with which his son Gurpreet Singh had hit the temple of the deceased, stands recovered from him.

Learned counsel for the complainant has further added that the

petitioner is the person, who had initiated the whole fight as per the FIR itself. It is he, who straightway comes at the spot and opens the assault upon the complainants. Had he not initiated the fight, probably the incident would not have taken place. Assertion has also been made that simply because the injuries are not found to be grievous, cannot give credit to the petitioner as it was good luck on the part of the complainant that the said injuries were not deep enough. Assertion has also been made that despite the petitioner and his son being in custody, threats have been received on telephone with regard to the cutting of the trees. Even the person, against whom application under Section 319 Cr.P.C. has been preferred, has been openly threatening the complainant. He thus contends that with this conduct, the petitioner does not deserve the concession of bail.

I have considered the submissions made by the counsel for the parties and on weighing the respective submissions, this Court is of the opinion that the injuries, which have been attributed to the petitioner, have been found to be simple, although on the vital part of the body i.e. Head. That apart, mere recovery of the *gandasa* from the petitioner would not show further involvement of the petitioner when there are specific allegations in the FIR attributing a particular role to the petitioner. In any case, that is a matter of trial, which has to be gone into by the Court on the basis of the evidence. That apart, what has been asserted is that threats have been received from the petitioner while he was in jail as also from one of the persons, who is sought to be summoned through an application under Section 319 Cr.P.C. but these aspects are again matters, which will not really delay the process of deciding the present petition, especially in the light of the role of the petitioner as also the fact that the petitioner is in custody for almost 10 months i.e. 9 months and 27 days with the trial not likely to proceed any further in the light of the

pendency of the application under Section 319 Cr.P.C., apart from the prevailing pandemic circumstances, as it exists today. Out of the 24 witnesses, one i.e. complainant has been partly examined and then during the examination of the complainant, application under Section 319 Cr.P.C. has been preferred.

In view of the above, the present petition is allowed.

Petitioner is directed to be released on bail to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Rupnagar.

Any observations made hereinabove are for the purpose of disposal of the present petition alone and shall have no bearing on the merit of the case during the trial in any manner.

September 9th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No