

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

211

**CRM-M-19258 of 2020
Date of decision:06.08.2020**

Ashish Kumar @ Billa

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Vishavdeep Singh Rana, Advocate
for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab
for the State-respondent.

SUVIR SEHGAL J. (ORAL)

This matter has been taken up for hearing through video conferencing due to Covid-19 Pandemic.

Present petition has been filed by Ashish Kumar alias Billa for grant of regular bail in FIR No.89 dated 31.03.2018 registered under Sections 302, 307, 325, 324, 323, 148, 149, 427 IPC, at Police Station City Rajpura, District Patiala.

As per the case of the prosecution, the FIR was registered on the statement of Gurtej Singh, who stated that Gurwinder Sidhu had levelled allegations against him that he had used some foul words against him. On 31.03.2018, he alongwith Gurtej Singh and Sandeep Singh had gone to meet Tota Singh who also used foul language. On his asking,

complainant along with Sohan Singh @ Sohna, Sukhwinder Singh @ Sukha, Lovepreet Singh, Sandeep Singh, Kamaljit Singh went to Khalsa Service Station on motorcycles where Gurkirat @ Lambardar, Jaskaran Bedi, Ashish Kumar (present petitioner), Tota and 35-40 other persons were already present who were armed with swords, kirchs and sticks. They attacked the complainant and his companions. Ashish @ Billa slashed his left cheek with a sword. Pannu and Tota gave kirch blows in the stomach of Sandeep and Sohan Singh. On an alarm raised by them, a number of vehicles stopped and the armed accused fled away from the spot. In the episode, Sohan Singh expired. The petitioner was arrested on 17.04.2018.

Gurpreet Singh @ Tota lodged a cross case under Sections 452, 324, 323, 148, 149 IPC wherein he stated that he was running Khalsa Service Station on rent. Ashish @ Billa, works with him and stays at the service station and undertakes the work of repairs of vehicles. On 30.03.2018 when he, Gurkirat @ Lamber and Gurwinder Singh were washing a truck at service station, Sukhwinder Singh rang up Gurpreet Singh and threatened him that he is coming to the service station so they should prepare themselves. Ashish @ Billa called a few friends to ensure his safety. The complainant party came with 14-15 young boys on motorcycles armed with datar, swords and sticks. Gurtej Singh inflicted a kirpan blow on the left hand of Ashish and Sukhwinder Singh gave a sword blow on Gurkirpal Singh which hit him on the right arm and another blow on his right cheek. In the fight between the two groups, both the sides suffered injuries.

Counsel for the petitioner has argued that the complainant had

attacked the petitioner and his friends and they had only acted in self defence. His argument is that the injury attributed to the petitioner is a simple injury inflicted on Gurtej Singh. He further submits that there is no allegation against him of having caused any injury to the deceased, Sohan Singh. He has placed reliance on the order dated 20.11.2019, Annexure P-2, passed by this Court in CRM-M-21648-2019, whereby co-accused, Gurkirat Singh, was granted regular bail by this Court and the counsel submits that the case of the petitioner is at par with that of Gurkirat Singh.

Opposing the petition, counsel for the State, upon instructions from S.I. Bahadur Ram has argued that the injury caused by the petitioner is on the face of Gurtej Singh and the same was caused by a sword. According to the counsel, the petitioner and his friends were the aggressors. He has filed the custody certificate of the petitioner dated 06.08.2018, which is taken on record. He submits that the case of the petitioner is not at par with that of Gurkirat Singh and that the cross-examination of the complainant is yet to be recorded.

I have heard the rival submissions of the parties.

From a perusal of the FIR and the contents of the cross case, it is difficult to determine, at this stage, as to which of the two sides, is the aggressor. Insofar as the petitioner is concerned, he has been specifically named in the FIR and is alleged to have caused injury with a sword on vital part of body of Gurtej Singh. Still further, an examination of the order dated 20.11.2019, Annexure P-2, passed by this Court granting regular bail to Gurkirat Singh shows that no role has been attributed to co-accused, Gurkirat Singh, whereas, the petitioner has actively

participated in the incident and had caused injury with a sharp edged weapon to one of the eye-witnesses. Still further, the complainant has been examined-in-chief before the trial Court but he is yet to be cross examined. Therefore, at this stage, the petitioner is not entitled to the grant of bail pending trial. His bail application is accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

06.08.2020

pooja saini

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No