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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.39507 of 2018 (O&M)
Date of Decision: 13.02.2020

SARWAN SINGHPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ajaivir Singh, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. D.A.G., Punjab.

Mr. Veneet Sharma, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of interim bail under Section 439 Cr.P.C in case bearing FIR No.16 dated 25.04.2018, registered under Sections 302, 148, 149, 201 IPC and Section 25 of the Arms Act at Police Station Kahnuwan, District Gurdaspur.

[2]. As per allegations, Surjit Singh was armed with chhura. Sarwan Singh, Kuku, Tinku were armed with swords. Sunny was armed with dang, Manjit Kaur and Ajit Kaur @ Jito were empty handed. They came to the house of the complainant from the side of Tinku's house by raising *lalkaras*. Manjit Kaur and Ajit Kaur jointly raised *lalkaras*. Surjit Singh pushed husband of the

complainant on the ground by giving blow of reverse side of *Chhura*. Thereafter Sarwan Singh gave straight blow of his kirpan on the head of husband of the complainant which hit on his left side of the head. Kuku and Tinku gave straight blows of their swords on the head of husband of the complainant, which landed on the left side of his head. Sunny gave blow of corners of his dang on husband of the complainant which hit on his different parts of the body. Husband of the complainant namely Hardeep Singh ultimately succumbed to the injuries.

[3]. On 25.09.2018, following order was passed by the Co-ordinate Bench of this Court:-

“The petitioner seeks grant of interim bail on grounds of illness.

It is specifically pleaded in the petition that the petitioner is suffering from acute medical ailment relating to his spinal cord, which had been diagnosed. A copy of MRI report has also been annexed with the present petition as Annexure P-3. The Superintendent, Central Jail, Gurdaspur is directed to make adequate arrangements to get the petitioner medically examined from government hospital and to submit its report as regards the medical condition of the petitioner, on or before the next date of hearing.

To come up on 10.10.2018.”

[4]. On receipt of report regarding, the medical condition of the petitioner, the Co-ordinate Bench of this Court on 10.10.2018 passed the following order:-

“Short reply by way affidavit of Sh. Karanjit Singh, Superintendent, Central Jail, Gurdaspur has been filed which is accompanied by Medical Status Report, wherein it has been reported that the patient i.e. petitioner is complaining of mild weakness in upper limb and difficulty in bearing weight on both lower limbs. Tenderness is reported to be present in lumbar spine. In the concluding paragraph of the said report the Medical Officer has given following advice:-

“Patient is advised to come via Principal Government Medical College Amritsar or Medical Superintendent, Government Medical College Amritsar for constitution of Medical Board regarding further management or admission if required.”

The aforesaid report is inconclusive. The State is directed to get the petitioner examined from a Medical Board constituted by Civil Surgeon, Amritsar. The Civil Surgeon, Amritsar is directed to constitute a Medical Board which shall examine and specifically opine as regards the medical condition and treatment proposed for the petitioner and also as to whether such treatment would be available in Amritsar in Government Hospital or not and also as to whether such treatment can be provided in Jail or not?

To come up on 20.11.2018.

The Superintendent, Central Jail, Gurdaspur shall make necessary arrangement for producing the petitioner before the concerned Hospital Authorities / Civil Surgeon, Amritsar on 22.10.2018 along with earlier medical record of petitioner, as may be available.

A copy of this order be sent immediately to Superintendent, Central Jail Gurdaspur and Civil Surgeon, Amritsar so as to enable them to do the needful. The Superintendent, Central Jail, Gurdaspur shall co-ordinate beforehand with Civil Surgeon, Amritsar before petitioner is produced before him on 22.10.2018.”

[5]. As per directions issued by the Court vide the aforesaid order, reply by way of short affidavit on behalf of the respondent/State was filed. On consideration of material produced before the Court, following order was passed on 20.11.2018:-

“Reply by way of short affidavit of Sh. Karanjit Singh, PPS, Superintendent Central Jail, Gurdaspur has been filed by learned State counsel today in Court, which is accompanied by a report of the Medical Board of Government Medical College, Amritsar, constituted pursuant to directions issued by this Court on 10.10.2018.

Vide order dated 10.10.2018, this Court upon noticing that the earlier report of the Medical Officer regarding the condition of the petitioner was inconclusive, had ordered for constitution of a Medical Board to examine the petitioner.

A perusal of the report dated 6.11.2018 of the Medical Board is rather again inconclusive inasmuch as in the concluding paragraph it has been recorded that certain facilities are not available in Government Medical Colleges or in Guru Nanak Dev Hospital, Amritsar. The concluding paragraph reads as follows:-

“Considering history clinic examination and investigation the Medical Board is of the view that patient Sarwan Singh is suffering from Quadriparesis with lower motor neuron type of lesion with more involvement of lower limbs than upper limbs possibly due to chronic inflammatory demyelization poluneuropathy (CIDP). To further confirm the diagnosis patient needs Nerve Conduction Velocity Studies, EMG (Electromyography), the facility for which is not available in Government Medical College and Guru Nanak Dev Hospital, Amritsar.”

It is not uncommon that the Government hospitals many a time refer the patients for some test to private hospitals/institutes such as for the purpose of conducting MRI etc. Similarly in case Velocity Studies, EMG (Electromyography) facilities are not available in Government Medical College and in Guru Nank Dev Hospital, Amritsar then the same may be got conducted from some reputed private institute, in case the same are available in private institutes, especially since the petitioner is willing to bear the expenses. However, in case such facilities are not available at all in Amritsar then such tests be got conducted from any other institute in the region as recommended by the Board. It is the duty of State to provide for medical treatment to under trials in custody. After getting the said tests conducted, a fresh report be submitted in this Court, along with a definite opinion to the effect as to whether pursuant to the diagnose the required treatment would be available in Amritsar or not.

The Superintendent, Central Jail, Amritsar is directed to do the needful and to coordinate with Civil Surgeon, Amritsar for getting the needful done and for production of the petitioner before the Board whenever the petitioner is required to be examined by the board so as to give a fresh definite report.

To come up on 25.1.2019.”

[6]. Thereafter the case was adjourned on number of times. The fact remains that the petitioner needs to be granted interim bail for atleast two weeks in order to ascertain/locate appropriate Hospital where the ailment of the petitioner can be cured or necessary operation, if any, can be done in that Hospital.

[7]. Keeping in view the facts and circumstances of the case, I am of the tentative view that the interim bail of two weeks

needs to be granted to the petitioner in view of his medical status as emerges on record from different reports, therefore, at this stage, without adverting to the merits of the case, petitioner is ordered to be released on interim bail for a period of two weeks, subject to his furnishing heavy bail bonds/surety bonds to the satisfaction of the trial Court. Petitioner is directed to surrender his passport, if any, before the trial Court.

[8]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

February 13, 2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No