

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

207

CRM-M-21052-2020
Date of decision: 24.09.2020

Amrit Pal Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

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

Mr. P.S. Walia, Asstt. A.G., Punjab
for respondent No.1-State.

Respondent No.2 did not appear
despite service.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (second) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.148 dated 04.10.2019 registered at Police Station Bullowal, District Hoshiarpur under Sections 323, 326 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") to which Section 326-A of the IPC was added lateron.

The above said FIR was registered on statement of Satnam Singh. In his statement Satnam Singh alleged that on 29.09.2019 at about 05:00 P.M. when he and his elder brother Harbhajan Singh were going to their fields, accused Bhupinder Singh armed with danda, Amrit Pal Singh (the petitioner) armed with iron rod and Paramjit Kaur

armed with danda came. Accused Bhupinder Singh gave lalkara and accused Amrit Pal Singh (the petitioner) hit him on his head with iron rod. When he moved aside to save himself the blow landed on his right eye due to which eye ball of his right eye came out from the eye. Accused Bhupender Singh hit him on eye brow of his right eye with danda due to which he fell down on the ground. When his brother Harbhajan Singh came forward to save him, accused Bhupinder Singh inflicted blow on right temporal region of his brother. Accused Paramjit Kaur inflicted blow with danda on his back in right side and threw his brother down. Thereafter, the accused gave him kick blows and caused internal injuries. When they raised alarm, his elder brother Balwinder Singh came and on seeing him, the accused persons fled from the spot with their respective weapons while threatening to kill them on further opportunity.

His first petition for grant of regular bail was dismissed as withdrawn vide order dated 25.02.2020 with liberty to file application for bail before learned Sessions Judge, Hoshiarpur.

The petitioner, who is in custody since his arrest on 06.10.2019, has filed the present petition for grant of regular bail on dismissal of his application by learned Additional Sessions Judge, Hoshiarpur.

The petition has been opposed by learned State counsel in terms of short reply filed by way of affidavit of Devinder Singh, PPS, Deputy Superintendent of Police, Sub-Division Hoshiarpur, District Hoshiarpur.

Learned State counsel has also filed custody certificate

through e-mail print out of which is taken on record.

Notice of the petition was also given to respondent No.2/complainant who did not appear despite service.

I have heard learned counsel for the petitioner and learned State counsel and gone through the relevant record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. Cross-case as per version of the petitioner side was registered vide DDR No.29 dated 03.01.2020. During occurrence the petitioner suffered eight injuries and his sister suffered six injuries one of which was caused with sharp edged weapon and was found to be grievous. As per the allegations made in the FIR blow attributed to the petitioner with iron rod ended up hitting right eye of the complainant when he moved aside to save himself. There was undue and unreasonable delay of five days in lodging of the FIR which was lodged with concocted and exaggerated version. Accused Bhupinder Singh and Paramjit Kaur have been granted regular bail by learned Additional Sessions Judge, Hoshiarpur vide orders dated 19.10.2019 and 04.11.2019. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has submitted that the petitioner and his sister Paramjit Kaur were arrested in the case on 06.10.2019 and recovery of iron rod and danda was made from them on 08.10.2019 but they did not disclose to the police facts regarding the

injuries on their person. No intimation was given to the police by the attending doctor, who conducted their MLR and by the petitioner and his sister till 06.10.2019 when the the cross-case was registered on statement of Paramjit Kaur. In view of the serious injury caused resulting in loss of the eye of the complainant, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case which involves version and cross-version, period of custody of the petitioner, parity with co-accused Bhupinder Singh and Paramjit Kaur who have already been granted bail by learned Additional Sessions Judge, Hoshiarpur and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

24.09.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No