

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

**CRM-M-22436-2020 (O&M).
Date of Decision: August 18, 2020**

MAKHAN SINGH

..... Petitioner(s)

Versus

STATE OF PUNJAB

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Dinesh Singh Rawat, Advocate
for the petitioner.

Mr. A.A. Pathak, Addl. A.G., Punjab.

Mr. Ishan Gupta, Advocate
for the complainant.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner prays for grant of bail pending trial in FIR No.96, dated 26.09.2018 under Sections 307, 365, 511 and 34 IPC and Section 25 of the Arms Act, registered at Police Station Moonak, District Sangrur (Punjab).

The above said FIR was registered on the statement of Mandeep Singh with the averments that on the morning of 26.09.2018, he had gone to meet his sister Paramjeet Kaur, who told him that she had received a telephonic call from the Moonak Courts for collecting the Shagun

Scheme money. Thereafter, the complainant alongwith his sister and niece (sister's daughter) proceeded to the SDM's office on a motorcycle. At about 11:15 A.M., they were waylaid by the petitioner and two other persons, who were travelling in an Alto car. The present petitioner alleged to be armed with a revolver, alighted from the car and fired twice in the air. Thereafter, he caught hold of the complainant's niece in order to abduct her. The complainant grappled with him. In the meantime, the other co-accused alighted from the car and freed the petitioner. All of the accused then tried to abduct complainant's niece but Paramjeet Kaur held on to her daughter. The petitioner is then alleged to have fired upon the complainant party. The complainant's sister Paramjeet Kaur was hit on the right side of her jaw and neck. She allegedly fell down on the ground in a pool of blood. People gathered on hearing the hue and cry raised by the complainant and his niece, upon which the petitioner and other co-accused fled from the spot. At the first instance, Paramjeet Kaur was admitted to the Civil Hospital, Moonak in an unconscious condition and thereafter, she was referred to Rajindra Hospital, Patiala. The reason behind the incident is stated to be the grudge held by the petitioner, due to registration of an FIR under Section 376 IPC on a statement of the complainant's niece (daughter of Paramjeet Kaur) and the petitioner, thus not wishing for his sister and family to live peacefully.

Learned counsel for the petitioner vehemently argues that the petitioner has been in custody since October 2018 and trial in this matter is not likely to conclude in near future, especially due to the outbreak of pandemic COVID-19. Learned counsel for the petitioner further refers to the statement of PW-4 Dr. Loveraj Pawar, Medical Officer, Sub-Divisional

Hospital, Moonak and submits that there is no conclusive evidence to indicate that the injury suffered by Paramjeet Kaur was due to fire arm. No weapon has been recovered from the petitioner, neither were any pellets, recovered from the spot. Learned counsel further refers to the guidelines laid down by the High Powered Committee, for grant of interim bail to the under trials and submits that the petitioner, in any case, is entitled to interim bail. It is, thus, prayed that this petition be allowed.

Learned counsel for the complainant and the State have opposed this bail application.

I have heard learned counsel for the parties.

Learned counsel for the petitioner is unable to dispute the pendency of the FIR under Section 376 IPC against the petitioner lodged at the behest of the complainant's niece i.e. daughter of the injured. As per the testimony of Dr. Loveraj Pawar, Medical Officer, Sub-Divisional Hospital, Moonak PW4, Paramjeet Kaur, the complainant's sister, was admitted in the emergency ward of Civil Hospital, Moonak at about 11:30 A.M. with a history of gun-shot injury, received on that day in the morning at 11:15 A.M. at Balran - Moonak Road, near the petrol pump. The condition and injuries on the person of Paramjeet Kaur are mentioned as under:-

“Patient was semi conscious with fresh bleeding present from right side of face (mandibular region) and neck. Blood pressure was 100 x 60 mmhg. Pulse rate was 64 per minute but feeble.

I found the following injuries on her person:-

- 1. A lacerated wound present over the right side of face over the mandibular region of size 2 x 1.5 cm. Blackening was present around the wound. Advised x-ray face antero-posterior and lateral view and surgeon opinion.*

2. *A lacerated wound of size .5 x .5 cm present over right side of neck (anterio lateral aspect) around 4 cm below the injury no.1. Advised x-ray neck antero-posterior and lateral view and surgeon opinion. (query foreign body).*
3. *Opened lacerated wound with underlying tissue and bone visible present over right great and second toe and over the left great toe.”*

PW-4 in the cross-examination stated as under:-

“Although I wrote in the MLR that the injury was of gun shot, but otherwise, I put a question mark against my that opinion as upto that stage, I was not sure about it. I am still not sure, even after going through the above mentioned record of Rajindra Hospital, Patiala as to if the injury was firearm injury or not. As I am not sure as to if it was a firearm injury and thus, I cannot say that either it was entry wound or exit wound. I cannot comment as to if the margins around the wound were concentric or margin of abrasion. Such injury by a fall cannot be ruled out. It is incorrect to suggest that I have made a false statement.”

Keeping in view the nature of injuries as has been described above, I do not find any ground whatsoever to grant the concession of bail to the petitioner on the basis of the response of PW-4 in the cross-examination. It is clearly mentioned in the description of injury no.1 that blackening was present around the wound. At this stage I do not find any merit in the argument of learned counsel for the petitioner in this regard, to conclusively opine that the injuries have not resulted from a firearm. Similarly no benefit can be afforded to the petitioner at this stage due to non-recovery of a weapon from him, due to the categoric eye-witness account.

Clause 8.1 of the guidelines laid down by the High Powered Committee dealing with the Extended Criteria and Procedure for release of under trial prisoners, provides that the following under trial prisoners be considered for release on six weeks interim bail and further extended till such time that the notification under the Epidemic Diseases Act 1897 is in force:-

“Cases under Section 326 IPC and 307 IPC which are not of serious nature – to be dealt on a case-to-case basis by the concerned Judicial Magistrate; with the additional condition that the accused should be in custody in only one case, i.e., he should be on bail in all other cases, if any.”

In the present case, the grave and serious allegations have been leveled against the petitioner. The petitioner is also facing another FIR under Section 376 IPC. Thus, keeping in view entire conspectus of the case, I do not find any ground whatsoever to grant the concession of bail/interim bail to the petitioner.

Accordingly, the petition is dismissed.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

18.08.2020

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No