

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22209 of 2020
Date of Decision : 21.08.2020

Balwinder

...Petitioner

Versus

State of Punjab

...Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amandeep Singh Manaise, Advocate,
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

* * *

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C.
for the grant of regular bail to the petitioner in respect of FIR No.188 dated
20.07.2018 under Sections 307,324,323,506,341,148 and 149 of the IPC
registered at Police Station Sadar Ferozepur, District Ferozepur.

Learned counsel for the petitioner argues that there were total
10 accused arrayed in the said FIR and as per the FIR, the petitioner was
attributed two injuries with the kapa on the head of the victim. Learned
counsel for the petitioner submits that the third injury by the kapa on the
head of the victim was attributed to one co-accused, namely, Tari. Learned
counsel for the petitioner argues that as per the Rapat No.36 dated
15.02.2020, out of the total 11 injuries, injury No.3, 8 and 11 were declared
grievous in nature and none of the grievous injury has been attributed to the

petitioner. Learned counsel for the petitioner further submits that the injury No.3 by Kapa on the head of the victim, which has been attributed to Tari, has been treated as grievous and the bail application of the co-accused Tari has been dismissed by this Court after noticing the said fact that the injury No.3 has been attributed to Tari. Learned counsel for the petitioner submits that the petitioner is already behind the bars since 23.12.2019 and the challan has already been filed and the trial is likely to take time. Learned counsel for the petitioner further apprise this Court that two of the co-accused, who were armed with kirpan and kapa namely, Karan @ Karni and Lakhwinder Singh @ Lakhi and were attributed simple injuries, have already been allowed benefit of regular bail.

Notice of motion.

Mr. Bhupender Beniwal, AAG, Punjab, who has joined the proceedings through video conference, keeping in view the advance copy of petition, accepts notice on behalf of respondent-State.

Learned State counsel submits that the injuries, which have been attributed to the petitioner, though in simple in nature, but have been assessed as sharp edged injuries and therefore, the petitioner is not entitled for the concession of bail. Learned State counsel does not dispute that the co-accused Karan @ Karni and Lakhwinder Singh @ Lakhi, who have also been attributed the sharp edged injuries, have been extended concession of bail.

I have heard Learned counsel for the parties and have gone through the record with their able assistance.

It is not disputed that the petitioner has been attributed injury

No.1 and 2 and though, these injuries are by sharp edged weapon, but have been declared simple in nature. Similar injuries have been attributed to the co-accused Karan @ Karni and Lakhwinder Singh @ Lakhi as well, to whom the concession of bail has already been extended by the competent Court of law. The petitioner claims parity for the grant of concession of bail. The concession of bail on the basis of parity cannot be denied to the petitioner unless and until any differentiating fact is brought to the notice of this Court between the petitioner and the co-accused Karan @ Karni and Lakhwinder Singh @ Lakhi, to whom also the injuries by sharp edged weapon have been attributed, which were also simple in nature. In the absence of any differentiating fact pointed out by the learned State counsel, the petitioner has made out a case for the grant of regular bail.

It is noticed herein again that the injury No.3, which is declared as grievous injury, has been attributed to co-accused Tari, whose bail application has already been rejected. That being so, as there are only three injuries, which the victim suffered on his head and other two being simple, which were attributed to the petitioner. Trial is likely to take some time before it concludes and keeping the petitioner behind the bars will serve no useful purpose.

Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not obstruct the trial in any manner or influence the witnesses, whose statement is yet to be recorded and in case of default of the above

undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

August 21, 2020
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(HARSIMRAN SINGH SETHI)
JUDGE

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