

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

102

CRM-M-22423-2020
Date of decision: 26.10.2020

Amarjit Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. A.P.S. Deol, Sr. Advocate with
Mr. S.S. Rangi, Advocate for the petitioners.

Mr. Sukhbeer Singh, Asstt. A.G. Punjab
for the respondent-State.

Mr. Arvind Kashyap, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

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

The petitioners have filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.80 dated 06.07.2020 registered under Sections 353, 186, 323, 506, 427 and 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station Badali Ala Singh, District Fatehgarh Sahib to which Sections 308 and 332 of the IPC were added lateron.

The above-said FIR was registered on statement of ASI Paramjit Singh. In his statement ASI Paramjit Singh alleged that on 05.07.2020 when he along with PHG Gurbhej Singh and PHG Harmesh Singh was present in Police Post Khera, ASI Kulwant Rai reached there and made complaint against Sukhdeep Singh @ Magga, Bittu,

Mandeep Singh and Amandeep Singh @ Aman who had came to his house and abused him regarding which telephonic information was given by his son Ramanpreet Sharma to the police. In the meanwhile, Mandeep Singh, Sukhdeep Singh @ Magga, Amandeep Singh @ Aman, Manjit Singh, Amarjeet Singh and three unknown persons came to the Police Post Khera on their motorcycles armed with dangs and soties (sticks), raised lalkara and gave blows to ASI Kuwant Rai with dangs and soties (sticks) and when he and other police officials came to rescue ASI Kuwant Rai, they attacked him and his colleagues with dangs and soties (sticks). Accused Sukhdeep Singh @ Magga picked up a chair with intention to kill him and struck the same on his head. When he was about to fall, accused Amarjit Singh gave dang blow on his back and Mandeep Singh tore his uniform. They destroyed chairs and window panes and criminally intimidated them by threatening to get rid of Police Post and eliminate them.

The petitioners, who are in custody since their arrest, have filed the present petition for grant of regular bail.

The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Sh. Sukhminder Singh Chauhan, Deputy Superintendent of Police, Bassi Pathana, District Fatehgarh Sahib and by learned Counsel for the complainant.

I have heard learned Senior Counsel for the petitioners, learned State Counsel and learned Counsel for the complainant and have gone through the relevant record.

Learned Senior Counsel for the petitioners has submitted that the petitioners have been falsely implicated in the case due to

grudge of resolution passed by the Gram Panchayat and to suppress the occurrence of threshing Sukhdeep Singh. Petitioner No.2-Ram Murti was not named in the FIR and no specific allegations apart from his presence at the time of the alleged occurrence are made against him. Petitioner No.1-Amarjit Singh is alleged to have given dang blow on the back of ASI Paramjit Singh which injury was as per MLR of ASI Paramjit Singh found to be simple. There is delay of about 8 hours in lodging of the FIR. ASI Kulwant Rai was not posted in the Police Post Khera. At the time of alleged occurrence four police persons were present in the Police Post Khera and the version put forth by the prosecution is totally preposterous and unbelievable. The allegations made in the FIR do not reflect any intention on the part of the petitioners and their co-accused to deter a public servant from performing his duty. None of the assailants is alleged to be carrying any dangerous weapon at the time of alleged occurrence. Offences punishable under Sections 308 and 353 of the IPC are not made out. Injuries attributed to the petitioners were simple in nature. Injury caused on the head of ASI Paramjit Singh which attracted Section 308 of the IPC is attributed to co-accused Sukhdeep Singh @ Magga. Challan has already been filed. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioners in custody during trial. Therefore, the petitioners may be granted regular bail.

On the other hand, learned State Counsel and learned Counsel for the complainant have argued that the petitioners along with their co-accused entered into the Police Post Khera and caused injuries

to ASI Kuwant Rai and ASI Paramjit Singh to deter ASI Paramjit Singh and other police officials from performing their duties as public servant and also caused damage to the articles lying in the Police Post Khera. In view of the nature of accusation and gravity of the offences committed by the petitioners, the petitioners do not deserve grant of regular bail. Therefore, the petition may be dismissed.

However, learned State Counsel, on instructions from ASI Sahab Singh, has submitted that there was no CCTV camera installed in the Police Post Khera and there was no CCTV footage of the alleged occurrence.

Learned Counsel for the complainant has submitted that ASI Paramjit Singh had made a video recording of the assailants retreating after the occurrence photographs from which have been attached with the reply filed by the State.

In reply learned Senior Counsel for the petitioner has submitted that the video recording from which photographs have been taken was made after the occurrence and the same is not of any evidentiary value.

In view of the facts and circumstances of the case, the fact that petitioner No.2 was not named in the FIR and except his presence there is no specific attribution to him, the fact that the injury on the person of ASI Paramjit Singh attributed to petitioner No.1 was declared to be simple and injury caused on the head of ASI Paramjit Singh which attracted Section 308 of the IPC is attributed to co-accused Sukhdeep Singh @ Magga coupled with the fact that the trial is likely to take long time but without commenting on the merits of the case, I am inclined to

extend the concession of regular bail to the petitioners.

Therefore, the petition is allowed and the petitioners- Amarjit Singh and Ram Murti are 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.

26.10.2020

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(ARUN KUMAR TYAGI)
JUDGE

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