

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Miscellaneous No.M-28207 of 2020 (O & M)

Date of Decision: September 21, 2020

Varinder Singh

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

. . .

PRESENT: - Mr. Hitesh Verma, Advocate, for the petitioner.

Ms. Bhavna Gupta, Deputy Advocate General, Punjab.

. . .

Sant Parkash, J

The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.

This petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case FIR No.101 dated 04.07.2020, under Sections 308, 323, 325, 379, 427, 148, 149 IPC; Sections 3(1)(r) & 3(1)(s) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, registered with Police Station Nehianwala, District Bathinda.

The FIR was recorded on the basis of statement of complainant Tarsem Singh, wherein he stated that on 03.07.2020, he was attacked by Varinder Singh (petitioner herein) alongwith co-accused Sarabjit

Singh and three other unknown persons when he was going towards his fields on motor cycle No.PB-03AF (T) - 4287. The accused persons came in a white car and hit his motorcycle from behind. They were armed with Pistol, Iron Rods and Baseball bats. Petitioner Varinder Singh fired three shots from his pistol and used derogatory words against the complainant, in the name of caste of complainant and proclaimed to teach him a lesson for complaining about his mother Charanjit Kaur, Sarpanch. Petitioner gave iron rod blow on the head and right bicep of complainant. Sarabjit Singh and other co-accused gave baseball bat blows to the complainant on his left leg, right thigh, chest and right hand. On raising hue and cry, one Baldev Singh came at the spot, whereupon, the accused fled away with their weapons. DDR Nos.40 dated 16.07.2020; 29 dated 20.07.2020; 19 dated 22.08.2020; and 17 dated 31.08.2020 were recorded, whereupon co-accused Sandeep Singh, Baljit Singh, Sukhmander Singh and Rampreet Singh were arrested and nominated as accused on the supplementary statement of complainant. The petitioner was arrested on 13.07.2020. Vide DDR No.19 dated 22.08.2020, offence under Section 325 IPC was enhanced since injury Nos.1, 2 and 5 were declared grievous in nature, although head injury No.9 was declared simple. Vide DDR no.17 dated 31.08.2020, offence under Section 336 IPC and Sections 25 & 27 of the Arms Act were removed and challan was produced in the court on 01.09.2020.

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated due to political grudge. Neither any empty cartridge nor any pistol has been recovered. Co-accused, namely Baljit Singh, Rampreet Singh, Sandeep Singh and Sukhmander Singh have already been released on bail. Offence under Section 308 IPC is not made as

the head injury (Injury No.9) as the MLR has been declared to be simple in nature. Offences under Sections 336 IPC and Sections 25 & 27 stand deleted. Accordingly, the petitioner deserves the concession of bail.

Learned State counsel has opposed the prayer made in the petition. Though, some offences have been deleted but injury Nos.1, 2 and 5 have been declared to be serious in nature. Bail application of the petitioner has been rightly dismissed by the trial court.

I have heard learned counsel for the parties and perused the record.

Admittedly, offence under Section 336 IPC and Sections 25 & 27 of the Arms Act stand deleted by the Investigating Officer and challan was presented on 01.09.2020. There is no dispute that head injury has been declared to be simple and co-accused of the petitioner have already been released on bail. Challan has already been presented, conclusion of which, will certainly take time and no useful purpose will be served by keeping the petitioner in custody any further.

Keeping in view the totality of facts & circumstances of the case and without commenting on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of trial court/Chief Judicial Magistrate/Duty Magistrate concerned.

**(Sant Parkash)
Judge**

September 21, 2020
avin

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No