

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

**Arashdeep Singh @ Harashdeep Singh and another
.....Petitioners**

2. CRM-M No.21852 of 2020

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Harlove Singh Rajput, Advocate
for the petitioners in CRM-M No.51649 of 2019.

Mr. Surinder Kumar Virk, Advocate
for the petitioner in CRM-M No.21852 of 2020.

Mr. Rajat Gautam, D.A.G., Haryana.

RAJ MOHAN SINGH, J.

[1]. Both the cases were taken up for hearing through video conferencing.

[2]. Vide this common order, CRM-M No.51649 of 2019 and 21852 of 2020 are being decided. Since both the cases have arisen from common FIR, therefore, for the sake of brevity common facts are being noticed.

[3]. Petitioners seek grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.850 dated 06.10.2018, registered under Sections 120-B, 148, 149, 307, 323, 324, 325, 326, 341, 506 IPC Police Station Assandh, District Karnal.

[4]. Brief facts are that the FIR was lodged on the basis of statement of Daljeet Singh son of Gurbaj Singh. As per the allegations, the complainant alleged that about 1-1/4 years back, the complainant-party had a land dispute with Hardeep Singh etc. The accused party caused gunshot injuries to the father of the complainant namely Gurbaj Singh and uncle Heera Singh etc. Father of the complainant lost his right eye in that dispute. FIR No.265 dated 05.05.2017 under Sections 307, 323, 148, 149, 452, 506 IPC & 25-54-59 of the Arms Act was registered at Police Station Assandh. The trial of the said case was fixed for 06.10.2018 in which 5 prosecution witnesses were to be examined.

[5]. On 05.10.2018, father of the complainant was returning home after completing his work from Assandh on his motorcycle. When he was just 3-4 *killas* away from the house, then Harshdeep struck his tractor in the motorcycle of father of the complainant with an intention to kill him. Father of the complainant along with his motorcycle fell in the paddy field. Thereafter, Harshdeep Singh, Jujhar Singh, Harbhajan Singh,

Maninder Singh, Vikramjeet Singh, Narender Pal @ Mintu and 3-4 other persons suddenly came there duly armed with weapons. They started beating father of the complainant. On hearing noise the complainant, his brother Shamsheer Singh and uncle Heera Singh reached at the spot.

[6]. Maninder Singh gave a *gandasa* blow on the head of father of the complainant. Harbhajan Singh gave a *lathi* blow on left arm of father of the complainant. Narender Pal gave a *lathi* blow on right hand of father of the complainant. When the complainant tried to rescue his father, then Harshdeep gave a *gandasa* blow on the right side of head of the complainant. Complainant fell down and when he tried to stand up, then Jujhar Singh gave a *gandasa* blow on right side of his head. Thereafter Narender Pal gave a *lathi* blow on the head of complainant. The complainant warded off the blow with his right hand and the blow landed on his right arm. He again repeated the blow which was again warded off by the complainant with his right hand. Thereafter, Harbhajan Singh gave a *lathi* blow on right side of back of the complainant and the complainant fell down.

[7]. Thereafter, Shamsheer Singh came to rescue the complainant, then Harshdeep gave a *gandasa* blow on his left arm. Jujhar Singh gave a reverse blow on the right arm of

Shamsher Singh with *gandasa*. He again attacked Shamsher Singh upon which Shamsher Singh in order to ward off the blow, brought his left arm forward and the blow landed on his left arm. Shamsher Singh fell down. Vikramjeet Singh gave a *lathi* blow on the legs of Shamsher Singh. Uncle of the complainant namely Heera Singh tried to rescue Shamsher Singh. Then all the accused attacked on Heera Singh with an intention to kill him. Harshdeep Singh raised a *lalkara* and also inflicted *gandasa* blow on the head of Heera Singh, but Heera Singh warded off the same by his left arm and the blow landed on his left arm. Thereafter, Harshdeep Singh again gave a reverse *gandasa* blow on the head of Heera Singh. Thereafter all the accused namely Vikramjeet Singh, Maninder Singh and Harshdeep Singh attacked Heera Singh and Heera Singh became unconscious.

[8]. The injured persons were taken to Government Hospital, Assandh. From there, they were referred to Kalpna Chawla Hospital, Karnal. Kalpna Chawla Hospital, Karnal referred Heera Singh to PGI, Chandigarh. Due to serious condition of Heera Singh, the complainant-party got him admitted in Virk Hospital, Karnal. They also got admitted other injured in that Hospital.

With the aforesaid background the FIR came to be

registered.

[9]. Learned Senior counsel for the petitioners submitted that according to prosecution case, four persons namely Gurbaj Singh, Daljeet Singh, Shamsher Singh and Heera Singh have received injuries from the complainant-party. He further submitted as under:-

(i) MLR of Gurbaj Singh would show four injuries on his person. Injury No.1 was on the head of Gurbaj Singh which was lacerated wound over mid parietal region muscle deep profusely bleeding. This injury was attributed to Maninder Singh (petitioner in CRM-M No.21852 of 2020).

(ii) MLR of Daljeet Singh would show that there were six injuries on his person. Injuries No.1 to 4 were kept under observation. Injuries No.5 and 6 were found to be simple. Injuries No.1 and 2 were on the head and the same were found to be grievous. Injuries No.3 and 4 were in the nature of pain and were subjected to X-ray.

(iii) MLR of Shamsher Singh would show that there were three injuries on his person. Injury No.1 was found to be grievous which was attributed to Harshdeep Singh

and Jujhar Singh.

(iv) MLR of Heera Singh would show three injuries on his person. Injury No.1 was punctured wound over left forearm. Injury No.2 was diffused swelling with abnormal movement of left arm. Injury No.3 was diffused swelling over whole of left forearm. The MLR did not show any head injury on the person of Heera Singh.

[10]. Learned Senior counsel further submitted that opinion of the Doctor in respect of injuries on the person of complainant-party would show that in respect of injuries on the person of Gurbaj Singh, the observation was that the opinion in respect of injuries No,1, 2 and 4 could not be given as there was no mention regarding X-rays conducted in the discharge summary prepared by the Doctor. In respect of injuries on the person of Daljeet Singh, the Doctor was of the opinion that the injuries No.1 and 2 were grievous in nature. Injuries No.3 and 4 could not be opined as there was no mention about the injuries having been subjected to X-ray. Injuries No.5 and 6 were found to be simple.

[11]. Learned Senior counsel further submitted that in respect of injuries on the person of Shamsher Singh, injury No.1 was found to be grievous in nature. Qua other injuries, opinion

could not be given as there was no mention in the discharge summary in respect of X-ray having been conducted *qua* the injuries. Injury No.1 was attributed to the petitioner-Arashdeep Singh @ Harashdeep Singh and Jujhar Singh.

In respect of injuries on the person of Heera Singh, the Doctor opined that Heera Singh was unconscious at the time of preparation of MLR and he remained unconscious at the time of his admission in Virk Hospital. NCCT revealed that he had Extra Dural Haemorrhage (EDH). The opinion in respect of injuries No.1, 2 and 3 could not be given for want of X-ray findings in the discharge summary.

[12]. Learned Senior counsel further submitted that the Investigating Officer further sought opinion of the Medical Officer in respect of injury on the person of Heera Singh. As per MLR, three injuries were found on the person of Heera Singh. No head injury was mentioned in the MLR. The opinion was sought in respect of nature of head injury. The Doctor opined that the injured was brought by ASI Satpal, P.S. Assandh to the Emergency with history of alleged assault and the patient was unconscious with no visible injury on the scalp. MLR was prepared, wherein injuries No.1 to 3 were mentioned. Patient was referred to Karnal after preparation of MLR. Ultimately, the patient was taken to Virk Hospital, where CT Scan revealed that

there was large parietal EDH with mass effect. Patient was operated. Patient had no visible injury over scalp and head injury was not mentioned under particulars of injury. After going through the MLR and discharge summary from the Virk Hospital, it was opined that patient (Heera Singh) suffered from closed head injury.

[13]. Learned Senior counsel on the basis of aforesaid facts further submitted that Heera Singh and other injured were taken to Virk Hospital despite the fact that Heera Singh was referred to PGI, Chandigarh. Learned Senior counsel raised serious question in respect of authenticity of record of Virk Hospital as earlier also in FIR No.742 dated 19.12.2015, Heera Singh was hospitalized in Virk Hospital and injuries were fabricated. The accused in the said FIR were acquitted by the Court of Judicial Magistrate Ist Class, Assandh vide judgment dated 08.10.2018.

[14]. Learned Senior counsel further submitted that the discharge summary prepared by the Virk Hospital Private Limited would show that in the column of past history the words 'no abnormality detected' have been mentioned. In the column of 'Hospital Course & Treatment Given' it has been mentioned that there was large parietal EDH with bleed for SSS which was controlled with packing of cotton pete, redo surgery with removal of packs done on 07.10.2018.

[15]. Learned Senior counsel further submitted that there was no visible injury on the head of Heera Singh as per MLR, then how private hospital could opine that there was large parietal EDH with bleed on the scalp of Heera Singh. Heera Singh was brought to private hospital against the referral made by the Kalpna Chawla Hospital, Karnal, whereby he was referred to PGI, Chandigarh. The record of the private hospital is claimed to be not authentic as there was no head injury on the person of Heera Singh.

[16]. Learned Senior counsel further submitted that so far as petitioner No.2 is concerned, there is no specific attribution qua him except to allege that all the accused came with their weapons and started beating father of the complainant, Gurbaj Singh, who had received one injury on the head and the same was attributed to Maninder Singh. Injury No.1 on the person of Gurbaj Singh could not be opined to be sufficient in order to attract offence under Section 307 IPC. As per opinion of the Doctor in respect of injuries No.1, 2 & 4, no opinion could be given as there was no mention in the discharge summary regarding X-ray having been conducted.

[17]. At last, learned Senior counsel submitted that co-accused Harbhajan Singh has been granted regular bail vide order dated 11.02.2020 passed by this Court in CRM-M

No.8624 of 2019.

[18]. Per contra, learned State counsel on instructions from the Investigating Officer submitted that the injuries on the person of Heera Singh were serious enough to attract the culpability of offence under Section 307 IPC as he remained in vegetative state. Challan has been presented, charges have been framed. Out of total 21 prosecution witnesses, 3 witnesses have been examined. Now due to the situation arising out of COVID-19 pandemic, the trial of the case may be delayed further.

[19]. Having heard learned counsel for the parties, I find that the complicity of the petitioners viz-a-viz. the injuries suffered by the complainant-party would remain debatable. The injuries on the person of Heera Singh, particularly the head injury would be subject to scrutiny on the basis of quality of evidence to be led by the parties as there was no head injury mentioned in the MLR. It was only by the private hospital, the said injury was detected and the same was found to be large parietal EDH with bleed. The Doctor has opined only on the basis of the discharge summary prepared by the private hospital i.e. Virk Hospital Private Limited, wherein the column of past history the words 'No abnormality detected' were mentioned.

[20]. Petitioner-Arashdeep Singh @ Harashdeep Singh is in

custody since 15.10.2018. As per custody certificate, in FIR No.24 dated 09.08.2018 registered under Sections 365, 376-D, 506 IPC at Police Station Assandh, Karnal he has been discharged by the Court of Judicial Magistrate Ist Class, Assandh vide order dated 21.09.2018. In FIR No.619/2017 dated 01.10.2017 registered under Sections 148, 149, 323, 341, 427, 447, 506, 511 IPC at Police Station Assandh, Karnal he is on bail. There is no other case against him.

[21]. So far as petitioner No.2-Hardeep Singh is concerned, there is no specific attribution qua him. His name has appeared only in the initial version of the FIR, wherein all the accused persons were shown with arms and have allegedly beaten father of the complainant with non-specific injuries. He is in custody since 08.10.2018. As per custody certificate, in FIR No.619/2017 registered under Sections 148, 149, 323, 341, 427, 447, 506, 511 IPC at Police Station Assandh, Karnal and in FIR No.265/2017 registered under Sections 148, 149, 307, 323, 452, 506 IPC, he is on bail. The conviction of the petitioner-Hardeep Singh under Section 138 of the Negotiable Instruments act is stated to be inconsequential.

[22]. Petitioner-Maninder Singh is alleged to have given *gandasa* blow on the head of Gurbaj Singh and as per medical opinion this injury is not found to be sufficient to attract

culpability of offence in terms of Section 307 IPC. He is in custody since 26.10.2018.

[23]. Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioners on regular bail.

[24]. In view of above, both the petitions are allowed. Petitioners are ordered to be released on bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

[25]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

August 27, 2020

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No