

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-3693 of 2021
Date of decision:31.08.2021

Ashish Kumar @ Billa

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. G.K.Mann, Senior Advocate with
Mr. Gursewak Singh, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL, J.

Heard through video conferencing.

This is the second petition seeking grant of regular bail to the petitioner in case FIR No.0089 dated 31.03.2018 registered under Sections 302, 307, 325, 324, 323, 148, 149 and 427 of Indian Penal Code, 1860 at Police Station City Rajpura, District Patiala.

As per the prosecution case, FIR was registered on the statement of Gurtej Singh, who was working as a Compounder with Gupta Hospital, Rajpura, on the allegation that Tota abused him when he alongwith Sandeep Singh went to meet him at Khalsa Service Station, Sirhind Bypass, Patiala Road, Rajpura. In the evening, Tota told Sukhwinder Singh to come to the Service Station in order to settle the

matter and he alongwith Sohan Singh @ Sohna, Sukhwinder Singh alias Sukha, Lovepreet Singh, Sandeep Singh, Kamaljit Singh went to the Service Station on motorcycles, where Jaskaran Singh Bedi, Gurkirat alias Lambar, Gurvinder Singh Sidhu Pilkhani, Ashish Kumar @ Billa (present petitioner), Gurvinder Singh and 35-40 unknown persons were present, who were armed with kirpanas, kirch, spade and sticks and they assaulted them. Ashish @ Billa gave a kirpan blow on the left side of the neck of the complainant with an intention to kill and Pannu and Tota gave kirch blows in the stomach of Sandeep and Sohan Singh (deceased), who expired as a result of the injuries received by him. When they raised an alarm, number of vehicles stopped and the accused fled away from the spot.

Counsel for the petitioner has argued that the petitioner has been falsely framed as he was neither armed with a sword nor caused any injury on the person of the complainant. By referring to the Medico Legal Report, she urges that Gurtej Singh, complainant, has received lacerated wound on the left side of his neck besides complaint of pain in the left forearm and chest and as per the opinion of the doctor, injury had been caused by a blunt weapon. Counsel has relied upon the order dated 07.10.2020 (Annexure P-7) passed by this Court in CRM-M-6887 of 2020, whereby, co-accused, Jaskaran Singh Bedi, has been ordered to be released on regular bail and has urged that the petitioner is similarly situated as the said co-accused. She submits that as the investigation qua petitioner is complete and the trial is not progressing, the petitioner deserves to be released on bail.

Opposing the petition, State counsel upon instructions from ASI Surjit Singh submits that not only has the petitioner been named in the FIR but has also been attributed with injury caused by sword. Disputing the fact that the petitioner is similarly situated as co-accused, Jaskaran Singh Bedi, he submits that since the complainant and another material witness are yet to be examined, grant of bail to the petitioner is not warranted.

I have considered the respective submissions of counsel for the parties.

The petitioner was a member of unlawful assembly, who were armed beforehand and attacked the complainant and his companions with sharp edged weapons causing grievous injuries and one death. There are categoric allegations against the petitioner. The order dated 07.10.2020 (Annexure P-7) is of no help to the petitioner as Jaskaran Singh Bedi was granted bail, keeping in view the fact that he has not been attributed any injury, whereas, there are specific allegations against the petitioner.

The first petition (CRM-M-19258 of 2020) filed by the petitioner was dismissed by this Court after arguments, vide order dated 06.08.2020 (Annexure P-6), wherein, it has been noticed that as the complainant is yet to be examined, the bail cannot be granted to him, at this stage. There is no change in the fact-situation or in the circumstances to enable the petitioner filing the second petition seeking grant of regular bail. Filing of subsequent petition without there being any change in the circumstances amounts to seeking review of the earlier judgment, which is not permissible in criminal law. Reference in this regard can be made to the

judgments of the Hon'ble Supreme Court in **Hari Singh Mann Vs. Harbhajan Singh Bajwa (2001) 1 SCC 169; State of Madhya Pradesh Vs. Kajad, 2001 SCC (Criminal) 1520** and **State of Maharashtra Vs. Capt.Buddhikota Subha Rao 1989 Supl. (2) SCC 605.**

There is no merit in the arguments advanced by counsel for the petitioner.

The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

August 31, 2021
savita

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>