

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(209)

CRM-M-3631-2021

Date of decision:- 29.09.2021

Gurpreet Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ripudaman Singh Sidhu, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.29 dated 18.03.2018 under Sections 451, 323, 326, 148 and 149 of the Indian Penal Code, 1860 (Section 307, IPC was added later on), registered at Police Station Kharar, District S.A.S. Nagar (Mohali), Annexure P-1.

As per the prosecution case, FIR, Annexure P-1, has been registered on the statement of Kuldeep Kumar on the allegation that on 17.03.2018 when he was at his house, a dog kept by his family started chasing a motorcyclist, who stopped, threw brickbats and had a scuffle with him and his family. Later that unknown motorcyclist came with seven persons, who were armed and inflicted injuries with sword, *gandasa* and a wooden stick upon his family members. The complainant hid himself in a hut, but he witnessed the gruesome attack.

Counsel for the petitioner submits that the petitioner is not named in the FIR nor any test identification parade has been conducted. He submits that the complainant did not mention the registration number of the motorcycle in his complaint and rather the original motorcycle, the description of which was mentioned in the FIR, was never recovered. He submits that the petitioner was declared as a Proclaimed Offender on 06.09.2018, but was arrested on 11.11.2020 and is in custody since then. He urges that the petitioner, who is not involved in any other criminal case, is no longer required for custodial interrogation as challan has been presented and the trial is not progressing.

State counsel, upon instructions from, ASI, Charanjit Singh has opposed the petition and submitted that a Proclaimed Offender is not entitled to the grant of concession of regular bail. As per his instructions, supplementary challan against the petitioner has been presented on 08.01.2021, charge has been framed on 08.04.2021, although none out of the five prosecution witnesses could be examined. He submits that trial against co-accused, Lashkar Chand, has concluded and he has been convicted and sentenced for a period of four years.

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

As there was some ambiguity regarding the weapon used by the petitioner and the injury inflicted by him, this Court passed the following order on 27.08.2021:-

“Heard through video conferencing.

Upon instructions received from ASI Charanjit Singh, State counsel submits that the petitioner was armed with a wooden stick, whereas in Para 6 of the order dated 24.12.2020, Annexure P-2, passed by the Court below, while dismissing the bail petition, it has been mentioned that the petitioner was armed with a gandasi and gave a blow with it on the neck of brother of the complainant.

In order to ascertain the factual position, let the State file a status report before the next date of hearing.

List on 29.09.2021.”

Status report by way of an affidavit of Deputy Superintendent of Police, Sub Division (Kharar-I), S.A.S. Nagar (Mohali) has been filed on behalf of the respondent-State, wherein it has been submitted as under:-

“8. That it is respectfully submitted that during investigation it has been found that the present petitioner, Gurpreet, was armed with 'danda/wooden stick and struck blows at Sohan Lal, the brother of the complainant, Kuldip Kumar. It is respectfully submitted that (it is) mentioned in the judgment/order that the accused was armed with 'Gandasi' and the blow was given by petitioner. It is clarified that as per the record of the police file, the petitioner, Gurpreet Singh, was armed with wooden stick.

The accused, Harman, was also armed with 'danda'/wooden stick.”

Perusal of the affidavit further shows that even the recovery of the wooden stick could not be effected from the petitioner.

Though the petitioner has been declared as a Proclaimed Offender, yet a single lapse on his part, deserves to be condoned.

Keeping in view the nature of allegations, gravity of offence, period of incarceration of more than ten months and the fact that the trial is likely to take time to conclude, the petitioner deserves to be enlarged on bail.

Without examining the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner, namely, Gurpreet Singh, is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

It shall be open to the trial Court to impose any other condition it deems reasonable to obviate the possibility of any default by the petitioner in future.

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

29.09.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No