

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

Criminal Misc.-M No.4099 of 2020

Date of Decision: January 16, 2021

Harshvir Singh @ Gagan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Mohd.Yousaf, Advocate,
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

Mr. Anil Kumar Spehia, Advocate,
for the complainant.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.03 dated 14.01.2019, under Sections 302, 323, 325 and 34 IPC, 1860, registered at Police Station, Sadar Nakodar, District Jalandhar. The petitioner is in custody since his arrest on 14.01.2019.

The contents of the FIR, as noticed by the Additional Sessions Judge, Jalandhar in his order dated 13.06.2019, read as under:-

“Tersely put, the present case has been got registered on the statement of Sukhjinder Singh son of Satnam Singh, wherein, he has stated that on 13.01.2019 on account of Lohri festival people from his locality had arranged bonfire at Samada Chowk. Many residents of the Mohalla were sitting around the fire. He along with his brother Kamaljit Singh and friend Balwinder @ Bunty were also sitting there. Arjan Singh, his brother Harshvir Singh also came there. Arjan Singh taunted

him due to which he felt ashamed. He also replied them in anger whereupon both of them took him aside and started beating him. His brother Kamaljit Singh and his friend Balwinder @ Bunty got saved him from them. Arjan Singh also called his father there on telephone, who also started abusing them. The people sitting near the fire made them understand. Then, Arjan Singh and Harshvir Singh alongwith their father went back to their house. After sometime, he alongwith his brother Kamaljit Singh was going to leave their friend Bunty and when they reached near Jasvir Singh's house around 9 PM, then, Jasvir Singh alongwith his both sons Arjan Singh and Harshvir Singh armed with kirpan and hockeys were standing there whereupon Jasvir Singh raised lalkara upon which Arjan Singh and Harshvir Singh gave blows to him and his friend Balwinder with kirpan and hockey and their father Jasvir Singh gave hockey blows on the head of his brother Kamaljit Singh. They raised hue and cry upon which Gurmail Singh came on the spot and saved them. His brother Kamaljit Singh sustained major injuries on his head and fell down on the ground. Gurmail Singh called his father on the spot and after arranging the vehicle admitted them in the hospital where doctor declared his brother Kamaljit Singh dead and referred him and his friend Balwinder to Civil Hospital, Jalandhar, where they are under treatment. On the basis of this statement, FIR was registered.”

Learned counsel for the petitioner has argued that the injuries inviting the offence punishable under Section 302 IPC have been attributed to petitioner's father, namely, Jasvir Singh. He further submits that the petitioner along with his brother and father is confined in custody for a long time and, therefore, his further custody may not be necessary. Learned counsel has invited the attention of the court to the evidence of PW-1 complainant-Sukhjinder Singh and PW-2 Balwinder Singh to contend

that the material eye-witnesses have been examined and, therefore, the petitioner be released on regular bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by SI Rajinder Singh, on the ground that the the offence is serious and the petitioner along with his co-accused participated in the crime. He submits that only three prosecution witnesses have been examined so far and still seventeen witnesses remain to be examined.

After hearing the learned counsel for the parties, this Court finds that as per prosecution, the petitioner and his brother Arjan Singh had earlier given beatings to complainant-Sukhjinder Singh, who was rescued with the intervention of Balwinder Singh (PW-2) and Kamaljit Singh (victim). As per allegations, accused Arjan Singh called his father (Jasvir Singh), who also abused the complainant, and after sometime, when Sukhjinder Singh (PW-1) along with his brother (Kamaljit Singh) and PW-2 were going to their house, accused Jasvir Singh and his sons armed with weapons attacked them. In the said occurrence, Kamaljit Singh died and complainant suffered injuries.

Resultantly, without expressing any opinion on the merits of this case, but considering the seriousness of the offence and the fact that the name of the petitioner has been specifically mentioned by the eye-witness in the FIR, this court does not find it to be a fit case for releasing him on regular bail at this stage.

Dismissed.

February 16, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No