

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

I) CRM-M-8051-2021 (O&M)

Binder @ Sukhwinder ... Petitioner

Versus

State of Haryana ... Respondent

II) CRM-M-8587-2021 (O&M)

Mandeep ... Petitioner

Versus

State of Haryana ... Respondent

Date of Decision:-25.8.2021

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Raghav Sharma, Advocate,
for the petitioner in CRM-M-8051-2021.

Mr. Sant Pal Singh Sidhu, Advocate,
for the petitioner in CRM-M-8587-2021.

Ms. Sheenu Sura, DAG, Haryana,
assisted by SI Balbir Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Binder @ Sukhwinder and Mandeep seeking grant of regular

bail in respect of a case registered vide FIR No.834 dated 10.8.2019 at Police Station Thanesar City, District Kurukshetra under Sections 148, 149, 302, 452, 120-B and 212 of Indian Penal Code.

2. The FIR was lodged at the instance of Manoj Kumar, wherein it is alleged that on 9.8.2019 Mohit passed some remarks in respect of cousin sister of Rakesh leading to an altercation between them. The petitioners Mandeep and Bhinder @ Sukhwinder supported Mohit but one Yogesh intervened and separated them. It is alleged that later at about 1:30 p.m. Mandeep (petitioner), Binder @ Sukhwinder (petitioner) and Mohit accompanied by 4-5 unknown boys entered into the room of the deceased while being armed with sticks and 'gandasas' and attacked Rakesh, who sustained injuries and ultimately succumbed to his injuries.
3. Learned counsel for the petitioners have submitted that even if the allegations as alleged are taken to be correct, it is at best a case of a brawl amongst students, wherein injuries have been caused on non-vital parts. Learned counsel, in this regard, has drawn the attention of this Court to the description of injuries in the post mortem report (Annexure P-2) (in CRM-M-8587-2021), which shows that the following 5 injuries were found on the person of deceased :

- “ 1. A deep gaping incised wound of size 5 cm X 2 cm X 4 cm at medial aspect of left arm, 3 cm downward from mid point of axillary cavity clear cut margin, obliquely placed as tail towards elbow joint, cut down blood vessels and nerves are exposed.
2. Superficial incised wound of size 2X0.5 at left shoulder.
3. A red abrasion of size 4X2.5 cm at upper part of left side of chest.

4. A grazed abrasion of size 5X4 cm at right leg middle one third.
5. A grazed abrasion at ventral aspect of g. and second toe of left foot.”

4. It has thus been submitted that since none of the injuries is on vital part of body, the deceased apparently seems to have expired on account of proper medical treatment not having been provided to him or on account of some negligence on the part of the doctors and that the same cannot be attributed to the petitioners.
5. Opposing the petition, learned State counsel has submitted that having regard to the manner in which the injuries have been caused with the help of sticks and ‘*gandasas*’, the petitioners do not deserve any leniency in the matter particularly when they are specifically named in the FIR. Learned State counsel has further informed that while petitioner Binder @ Sukhwinder is involved in one more case, the petitioner Mandeep is not involved in any other case. It has further been informed that while petitioner Mandeep has been behind bars since the last about 1 year and 8 months, the petitioner Binder @ Sukhwinder has been behind bars since the last about 2 years. It has also been informed that as on date out of the cited 30 PWs only 1 PW has been examined so far.
6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that the petitioners are specifically named in the FIR. However, having regard to the nature, number and seat of injuries, it will be debatable as to whether it is a case of murder or as to whether it would fall within the parameters of culpable homicide not amounting to murder particularly since none of the injuries is found to be on any vital part of the

deceased. The petitioners are young students and both of them have been behind bars since a substantial period as recorded above. Conclusion of trial is likely to take substantial time inasmuch as till date only 1 PW out of the cited 30 PWs has been examined. In these circumstances, further detention of the petitioners will not serve any useful purpose. Both the petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

25.8.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No