

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

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**(I) CRM-M-32939-2021 (O&M)**

Rohi Ram ...Petitioner

Versus

State of Punjab ...Respondent

**(II) CRM-M-15140-2021 (O&M)**

Jaswant Singh @ Gholi ...Petitioner

Versus

State of Punjab ...Respondent

**Date of Decision: 10.09.2021****CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**Present: Mr. Gauravdeep Singh Dhaliwal, Advocate,  
for the petitioner in CRM-M-32939-2021.Mr. Jatinder Nagpal, Advocate,  
for the petitioner in CRM-M-15140-2021.Mr. Ajay Pal Singh Gill, DAG, Punjab,  
assisted by ASI Bagicha Singh.Mr. Mohit Garg, Advocate,  
for the complainant.**GURVINDER SINGH GILL, J. (Oral)****CRM-28901-2021 in CRM-M-32939-2021 and**  
**CRM-28698-2021 in CRM-M-15140-2021**In view of the reasons mentioned in the applications, the same are  
allowed and the examination-in-chief of complainant Surinder

Singh is taken on record as Annexure C-1 subject to all just exceptions.

**CRM-M-32939-2021 and**  
**CRM-M-15140-2021**

1. This order shall dispose of the aforesaid two petitions i.e. CRM-M-32939-2021 filed on behalf of Rohi Ram as well as CRM-M-15140-2021 filed on behalf of Jaswant Singh @ Gholi seeking grant of regular bail in respect of a case registered against them vide FIR No.48 dated 08.05.2020 at Police Station Sanaur, District Patiala, under Sections 302/34 IPC.
2. The FIR in question was lodged at the instance of Surinder Singh son of Ujagar Singh wherein it is alleged that they have set up a *kup* (wheat chaff mound) in their plot and that in the adjoining plot owned by Jaswant Singh, eucalyptus trees have been sown and who has also been installed an illegal water tap for irrigation of the said trees. It is alleged that the said tap used to remain open, resulting in water overflowing into their plots and damaging the *kup*. The complainant's brother Jarnail Singh had lodged complaint with Jaswant Singh but to no avail. It is alleged that on the day of occurrence i.e. on 08.5.2020 at about 5PM when he alongwith his brother Jarnail Singh went to their plot, they saw that the water was flowing from the tap, installed in the plot of Jaswant Singh. When the complainant's brother protested regarding the same to Jaswant Singh, he gave fist blows to complainant's brother. Jeet Singh, Karnail Singh and Rohi Singh also came at the spot. While Jeet Singh and Rohi Singh pinned down the complainant's brother to the ground by holding his arms, Jaswant Singh and Karnail

Singh gave kicks to Jarnail Singh. When the complainant raised alarm, his nephew was attracted to the spot and the assailants ran away from the spot.

3. Learned counsel for the petitioners have submitted that it is a case where the deceased was aged more than 70 years and that his death cannot be attributed to the alleged fist blows or kick blows stated to have been inflicted by the accused. Learned counsel have further submitted that in any case, since none of the accused is stated to have been armed with any weapon, *mens rea* cannot be attributed to them so as to cause his death. Learned counsel have further submitted that since two of the identically situated co-accused, namely, Jeet Singh and Karnail Singh have already been granted bail by this Court vide order dated 05.08.2021, the petitioners also deserve the same concession on the grounds of parity.
4. Opposing the petition, learned State counsel assisted by the learned counsel for the complainant has submitted that since the petitioners are specifically named in the FIR and are also attributed an active role, no case for grant of bail is made out. Learned counsel for the complainant has further submitted that there are categorical allegations against the petitioner Jaswant Singh to the effect that he had given fist blows to the complainant's brother and that even against Rohi Ram, it is specifically alleged that he has facilitated the commission of crime inasmuch as he alongwith Jeet Singh had pinned down complainant's brother so as to enable the other co-accused to inflict kicks to the deceased. Learned counsel for the

complainant has further submitted that the deceased although aged about 70 years, but was hale and hearty and was actively pursuing the agricultural pursuits and it cannot be said that he has suffered a natural death on account of old age.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that none of the petitioners or any of the accused was armed with any weapon. It is only the fist and kick blows which are attributed to the accused. The deceased was aged about 70 years. Even if all the allegations are taken to be correct, still it will be debatable as to whether it would attract an offence under Section 302 IPC or under Section 304 IPC. In any case, the petitioners deserve the concession on the ground of parity, as two of the co-accused, who are almost identically situated, have already been extended the concession of bail. The petitioners, in any case, have been behind bars since the last more than 1 year and 3 months. In these circumstances, further detention of the petitioners will not serve any useful purpose as the conclusion of trial will take some time. 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.
7. A photocopy of this order be placed on all the connected files.

**10.09.2021**

Vimal

**(GURVINDER SINGH GILL)**  
**JUDGE**

Whether speaking/reasoned: **Yes/No**  
Whether reportable: **Yes/No**