

In virtual Court

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 21.09.2021

1. CRM-M-16839-2021 (O&M)

Jagpal

... Petitioner

Vs.

State of Haryana

... Respondent

2. CRM-M-6925-2020 (O&M)

Satbir

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Paras Talwar, Advocate
for the petitioner (in CRM-M-6925-2020).

Mr. S.K. Goswami, Advocate
for the petitioner (in CRM-M-6925-2020).

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

This order shall dispose of abovementioned two petitions praying

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for grant of regular bail to petitioners Jagpal and Satbir, in FIR No.82 dated 08.03.2018 under Sections 302, 323, 452, 506, 148, 149, 34 IPC, registered at Police Station Sadar Jind, District Jind.

Brief facts of the case are that in the FIR registered at the instance of Sunil Kumar, it is stated that his family is doing agricultural farming. His grandfather Ramkishan are two brothers and his brother Shri Ram had three sons. His both grandfathers i.e. Ramkishan and Shri Ram had orally partitioned the land in equal share and there is a small piece of land (ruhri), where the complainant has installed a tubewell, however, sons of Shri Ram namely Satbir and Jagpal are not happy and they previously raised a quarrel that the land underneath the tubewell belongs to them and on that account, complaints were given to the police. It is further stated that on 07.03.2018, when he along with his grandfather Ramkishan were present in the house, Bindu son of Bhim Singh carrying a spade, Moman son of Bhim Singh carrying a stick, Shakti son of Bhim Singh carrying a stick, Renu daughter of Bhim Singh having stick in her hand, Kamla wife of Bhim Singh having mogri, Satbir son of Shri Ram carrying iron rod, Sanjay son of Satbir having a stick, Nanhi wife of Satbir having stick, Pyati wife of Sanjay having stick, Jagpal son of Shri Ram carrying gandas, Sheela wife of Jagpal having stick and Sonia daughter of Satbir having stick, came at the spot and entered his house, in conspiracy with each other, to open a deadly attack on the complainant and his grandfather. Sanjay gave stick blow on his right hand, Bintu gave stick blow on his left leg, Moman gave stick blow on his back, Shakti gave stick blow on his left ear and other accused caused

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injuries to his brother Anil and father Krishan, when they came to his rescue. Jagpal gave gandas blow on head of my grandfather, due to which he fell down. When they started raising hue and cry, many villagers gathered there and the accused persons ran away from the spot with their respective weapons. Thereafter, his father got his grandfather admitted in Govt. Hospital, Jind and after giving first aid, he was referred to PGIMS, Rohtak.

Learned senior counsel for petitioner Jagpal and learned counsel for petitioner Satbir have submitted that as per MLR, following two injuries were reported, which were sustained by Ramkishan: -

“Two lacerated wound of size 10 cm x 0.5 cm x muscle deep and 3 cm x 0.5 cm x muscle deep respectively present over mid parital region, adv NCCT Head and Surgeon opinion.”

It is further submitted that on 07.03.2018, Ramkishan was admitted in the hospital and later on, he died on 16.03.2018. It is also submitted that as per post-mortem report, a depressed fracture frontal bone right side and a fracture temporo parietal bone is seen. It is next submitted that the version given in the FIR that Jagpal gave a gandas blow on head of deceased Ramkishan is at variance with medical version, where two lacerated wounds were found. Even as per MLR, there are two injuries, which were caused by two different weapons, however, the same is not explained by the prosecution.

It is next argued that the statements of both the eyewitnesses have already been recorded. In the statement of complainant/PW2 Sunil Kumar, it is stated that all the accused, as named above, caused injuries to his brother Anil

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and father Krishan and Jagpal inflicted gandas blow on head of his grandfather, however, in the statement of PW5 Krishan, an improvement is made to cover up two injuries as per MLR and it is stated that accused Jagpal gave gandas blow on head of my father and accused Satbir gave an iron rod blow on head of my father Ramkishan.

It is further argued that attribution to Satbir is neither in the FIR nor in the statement of PW2 Sunil Kumar, therefore, it clearly amounts to improvement in the prosecution version. Even as per statement of PW10 Dr. Sunil Narwal, Medical Officer, Govt. Hospital, Jhajjar, the version given in the FIR is found to be at variance.

Learned State counsel, on the basis of affidavit of Deputy Superintendent of Police, HQ Jind, District Jind, has submitted that after registration of FIR, the victim was medico-legally examined and later on, he died and thereafter, Section 302 IPC was added. It is further submitted that during investigation, on 18.03.2018, Satbir and Jagpal were arrested and in their disclosure statements, an iron spade was recovered from Satbir. It is also submitted that other accused were later on arrested and during investigation, Sheela, Pyari and Sonia were found innocent. It was also found that Nanhi and Kamla were not involved in the offence and Shakti was also not present at the spot, therefore, no challan was presented against them. It is next submitted that out of total 21 prosecution witnesses, 11 PWs have already been examined.

In reply, it is argued on behalf of the petitioners that both the petitioners are in custody for the last 03 years and 06 months; they are not

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involved in any other case; admittedly they are collateral of the deceased; the incident was followed by verbal spat, which occurred at spur of the moment and independent witnesses have already been examined.

After hearing learned counsel for the parties and considering the aforesaid facts, I deem it appropriate to grant regular bail to the petitioners, for the following reasons: -

- (a) They are in custody for the last 03 years and 06 months and all the independent witnesses have already been examined and only formal witnesses remain to be examined. Even PW5 has made improvements in his deposition.
- (b) There is variation in the oral version and medical version, which will be decided at the time of final disposal of the trial.
- (c) They are not involved in any other case.
- (d) Conclusion of trial will take long time, as 10 PWs are yet to be examined.

Accordingly, both these petitions are allowed and petitioners Jagpal and Satbir are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petitions stand disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

21.09.2021
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No