

CRM-M-30405-2020 (O&M)

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

**CRM-M-30405-2020 (O&M).
Decided on: January 11, 2021.**

Vikramjit Singh @ Vicky @ Bikramjit Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Ms.Tanu Bedi, Advocate, and
 Mr.Munishi Puri, Advocate,
 for the petitioner.**

Mr.Luvinder Sofat, AAG, Punjab.

**Mr.Jaspal Singh Pannu, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

Through Video Conference

The present third petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.68 dated 30.07.2019, under Sections 307, 323, 325, 148 and 149 IPC (Section 452 and 201 IPC added later on), registered at Police Station Sujampur,

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District Pathakot.

The present petition is the third petition for regular bail filed by the petitioner. Earlier vide Annexure P-8, the bail petition had been permitted to be withdrawn, at this stage on 5.2.2020 and thereafter, vide Annexure P-9 on 24.7.2020, the petitioner again withdrew the bail petition particularly in view of the fact that charges had not been framed on that date.

Learned counsel for the petitioner has submitted that successive bail applications are maintainable under law in case changed circumstances can be shown to the Court. Learned counsel for the petitioner has further submitted that after withdrawal of the bail application on 24.7.2020, charges have now been framed on 30.10.2020 and therefore, the present bail application would be maintainable in law in view of changed circumstances.

In the present case, the FIR was lodged on the basis of statement made by Salwinder Singh son of Harman Singh, resident of village Attepur, that on 17.7.2019, at about 6 PM, when he was carrying fodder from his fields for the cattle and reached near the house of Geetu, brother of Salwinder Singh, behind the gate Salwinder Singh's son of Kartar Singh, Balwinder Singh, Salwinder Singh, Bittu, Pintu, Gopy, Mandeep Singh and 4 more persons were hiding there. Vikramjit Singh (petitioner) who was holding datar in his hand attacked the complainant and remaining persons hiding behind the gate also came on the road and thereafter various acts of injuries have been stated in the FIR pertaining to different persons.

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In the present FIR there are six accused and out of six accused one Gurjinder Singh has already been granted regular bail by a Coordinate Bench of this Court vide order passed in CRM-M-48533-2019 and the remaining accused have also been granted anticipatory bail and the petitioner is the only accused left who has not been granted bail as of now.

Learned counsel for the petitioner has further submitted that it is a case of version and cross-version. She has submitted that present FIR was lodged on 30.7.2019 whereas the incident reported in the FIR is dated 17.7.2019 and there is unexplained delay of 13 days. She has further submitted that in fact the aggressor party was the complainant party itself regarding which also a separate DDR was lodged in which there are 8 accused who have been challaned by the police later on. She submitted that even as per the FIR, various injuries which have been attributed to the petitioner as stated in the MLR (Annexure P-4) are simple in nature. She has drawn attention of this Court to Annexure P-24, to state that injuries which have been attributed to the petitioner are only simple in nature and injury No.6, stated in Annexure P-24, which was declared to be grievous in nature was not attributed to the petitioner because it was pertaining to the injury on the chest which was attributed to one Bittu who has been granted anticipatory bail by this Court. She submitted that all the injuries which have been attributed to the petitioner are simple in nature. She has further submitted that investigation of the present case has already been completed and after presentation of challan, charges have also been framed on 30.10.2020 although no prosecution witness has been examined in the

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present case. She has submitted that it is a case where no recovery is to be effected and the petitioner is not involved in any other case. She submitted that so far as challan which has been presented qua the cross-version is concerned, the same is pending before the concerned Judicial Magistrate and since cases are to be taken together, there is likelihood that the prosecution witnesses may not be examined in near future. She has further submitted that it is a case where the petitioner is in custody since 19.8.2019 which is almost 1 year and 4 months and the trial is likely to take long time and therefore, petitioner may be considered for the grant of regular bail particularly in view of the fact that other co-accused have been granted bail and only the petitioner is behind bars.

On the other hand, learned State counsel has submitted that it is correct that petitioner is in custody since 19.8.2019 and the charges have already been framed on 30.10.2020 and that the petitioner is not involved in any other case whatsoever and has relied upon the custody certificate which he has filed. He has however, opposed the grant of regular bail to the petitioner on the ground that the petitioner was involved in a serious fight and he had inflicted injuries on the complainant one of which was declared to be grievous in nature. He has further submitted that since prosecution witnesses are yet to be examined, the present petition be dismissed.

Learned counsel for the complainant has also argued on the same line as the learned State counsel. He has not disputed that other co-accused in the present case are on bail but he has opposed the grant of bail

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to the petitioner on the ground that serious injuries have been attributed to the petitioner.

I have heard the learned counsel for the parties.

It is not disputed that the investigation in the present case is already complete and after presentation of challan, charges have also been framed on 30.10.2020. It is also not disputed that petitioner is in custody since 19.8.2019 and is not involved in any other case whatsoever. It is also not disputed that all the other co-accused have been granted bail. One of the co-accused namely Gurjinder Singh has been granted regular bail by a Coordinate Bench of this Court vide CRM-M-48533-2019 on 21.11.2019.

From the submissions of the learned counsel for the parties and from the perusal of the record, it can be seen that a cross-version was also registered at the instance of petitioner's party in which also challan has been presented by the police although the same is pending trial before the Judicial Magistrate.

So far as maintainability of the successive bail applications is concerned, the argument raised by the learned counsel for the petitioner that the same would be maintainable in view of changed circumstances does carry some weight. The bail application was withdrawn on 24.7.2020, particularly in view of the fact that the charges were not framed and now since the charges have been framed on 30.7.2020, it would certainly be a changed circumstance and therefore, the present petition is held maintainable in law. Furthermore, the injuries which were attributed to the petitioner have been declared to be simple in nature as per the argument

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raised by the learned counsel for the petitioner. Issues with regard to the role of the petitioner as well as who was the aggressor party is a matter of trial and would be seen at the time of evidence and therefore debatable in nature. However, at the time of consideration of bail application, this Court has to see as to whether there is any ground for denial of bail to the petitioner or not. It is not a case of the State that in case the petitioner is released on bail there is possibility that he will influence any witness or he may tamper with any evidence. An apprehension has been raised by the learned State counsel that the petitioner may influence the witness. On being asked as to whether there is any material on the basis of which the argument is being raised, learned State counsel is not able to satisfy this Court.

Consequently, considering the totality of the circumstances, the present petition is allowed. It is ordered that the petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the concerned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

January 11, 2021.
raj arora

JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No