

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(I) CRM-M-31818-2020 (O&M)**

Makhan Singh ...Petitioner

Versus

State of Punjab ...Respondent

(II) CRM-M-35598-2020 (O&M)

Kala Singh ...Petitioner

Versus

State of Punjab ...Respondent

Date of Decision: 25.08.2021**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. J.S.Warring, Advocate, for the petitioners.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Harpinder Singh.*(proceedings conducted through video conferencing)***GURVINDER SINGH GILL, J. (Oral)**

1. This order shall dispose of the aforesaid two petitions filed on behalf of Makhan Singh and Kala Singh respectively, seeking grant of regular bail in respect of a case registered against them vide FIR No.33 dated 26.04.2016 at Police Station Arniwala, District Fazilka, under Sections 302/364/342/148/149 IPC.
2. The matter pertains to death of complainant's husband Kulwant Singh. In the FIR lodged at the instance of complainant, it is alleged that on 26.04.2016, when she along with her husband was returning back home after visiting their relative, they were waylaid

by accused Pritam Singh, who was armed with '*kappa*'; Kala Singh, who was armed with 'axe'; Pritam Singh, who was armed with 'iron rod'; Gurcharan Singh, who was armed with a 'stick' and Makhan Singh, who was carrying a '*dang*'. Pala Singh raised lalkara exhorting his companions to teach Kulwant Singh a lesson for giving beatings to ladies of their house and upon which the accused caught hold of the complainant's husband Kulwant Singh and took him to their home, where Nanko Bai daughter of Pritam Singh; Rajjo Bai daughter of Makhan Singh and Prito Bai wife of Pritam Singh were present. It is alleged that all of them started beating her husband. Pala Singh is alleged to have given a blow with '*Kappa*' to the complainant's husband from his reverse side hitting on his left arm. Pritam Singh is alleged to have given a blow with 'rod' hitting on the backside of head of complainant's husband. Kala Singh gave a blow with 'axe' hitting Kulwant Singh on his right wrist. Makhan Singh gave a blow with '*dang*' hitting the same on his legs. Gurcharan Singh, who was also present in the house and was carrying a stick, gave a blow with the same on the right ankle of Kulwant Singh. When the complainant raised alarm several persons from the neighbourhood were attracted, but the accused shut the gate and kept on beating complainant's husband. Later, the complainant and others were able to break the door and took out the complainant's husband, who was taken to hospital, but he succumbed to injuries.

3. Learned counsel for the petitioners has submitted that they have falsely been implicated in the instant case. Learned counsel has

submitted that even as per the FIR, the only injury attributed to Kala Singh is on a non vital part i.e. on the wrist of the deceased with the help of an axe and that Makhan Singh in any case was armed with a stick only and is stated to have given injury with the same on the legs of the deceased. It has been submitted that the cause of death is stated to be 'hemorrhagic shock' and that the same cannot be related to the injuries found on the person of the deceased. It has been submitted that all the injuries except injury on the wrist are in the nature of injuries caused with blunt weapon and it is only the injury on the wrist, which can be said to be with sharp edged weapon. Learned counsel has further submitted that in any case since petitioner Makhan Singh has been behind bars since the last 4 years and 5 months and petitioner Kala Singh has been behind bars since the last about 5 ½ years, both the petitioners deserve to be released on bail.

4. Opposing the petition, learned State counsel has submitted that keeping in view the fact that serious allegations have been levelled against the petitioners and both of them are specifically named in the FIR and are also carrying weapons and are also attributed injuries, the collective effect of which was death of Kulwant Singh, no leniency can be shown in the matter. Learned State counsel has, however, confirmed that while Makhan Singh has been behind bars since the last about 4 years and 5 months, Kala Singh has been behind bars since the last about 5 ½ years. It has also been informed that none of the petitioner is involved in any other case.

Learned State counsel has further informed that as on date 6 PWs out of cited 21 PWs are yet to be examined.

5. I have considered rival submissions addressed before this Court.
6. Having regard to the facts and circumstances of the case and particularly bearing in mind the long custody of both the petitioners, further detention of the petitioners will not serve any useful purpose as the conclusion of trial will take some time. 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. It is clarified that Makhan Singh, who is already on interim bail, shall furnish fresh bail bonds for the purpose of his release on regular bail before the learned trial Court and although no specific order for extension of interim bail was passed after 06.04.2021, the same shall be deemed to be extended, if he furnishes his fresh bail bonds for the purpose of regular bail.

(GURVINDER SINGH GILL)
JUDGE

25.08.2021

Vimal

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

Whether reportable: **Yes/No**