

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

218

CRM-M-36603-2020

Date of decision: 08.01.2021

Lakhwinder Pal Sharma @ Lucky @ Lakhwinder SinghPetitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. H.S. Brar, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.107 dated 29.05.2020 registered under Sections 148, 323, 325, 342, 452 and 506 read with Section 149 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Dharmkot, District Moga to which Sections 304 of the IPC was added and from which Section 302 of the IPC added earlier was deleted lateron.

The above said FIR was registered on statement of complainant Kuldeep Singh. In his statement Kuldeep Singh mentioned that he had rented out workshop owned by him to Jarnail Singh. Co-accused Parveen Kumar, who had residential house situated opposite to the workshop, was having grudge as they did not remove Eucalyptus Trees standing in the workshop. On 27.05.2020 when Jarnail Singh

opened the workshop, co-accused Parveen Kumar closed outer gate of the workshop. On call made by Jarnail Singh, complainant Kuldeep Singh and his brother Jaswinder Singh reached there and opened the gate of the workshop. At about 12:00 Noon co-accused Parveen Kumar armed with kapa, Kaku armed with kirpan and Shashi Bala armed with dang and the petitioner armed with rod along with 5-6 persons entered into the workshop dragged the complainant and others to the street. Co-accused Parveen Kumar exhorted to teach a lesson to them and gave kapa blow on left knee of the complainant. The petitioner gave rod blow on the chest of the complainant. When Jaswinder Singh came forward to save the complainant, co-accused Parveen Kumar gave kapa blows on right and left side of head of Jaswinder Singh. Kaku gave kirpan blows on his head. The petitioner gave rod blow on left feet of Jaswinder Singh. Shashi Bala gave dang blows on right thigh, left elbow and right eye of Jaswinder Singh. When the complainant and others raised alarm, the above said persons fled from the spot with their respective weapons. Since the complainant-Kuldeep Singh died after registration of the FIR, Section 302 of the IPC was added. However, subsequently Section 302 of the IPC was deleted and Section 304 of the IPC was added.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Shubeg Singh, PPS, Deputy Superintendent of Police, Dharamkot, District Moga in the Registry which is taken on record.

Learned State Counsel has also filed custody certificate of the petitioner through e-mail print out of which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. Even as per the allegations made in the FIR the petitioner is alleged to have given blow with rod on the chest of complainant Kuldeep Singh. As per opinion of the Medical Board, complainant Kuldeep Singh died due to congestive heart failure and not due to the injuries sustained by him. Offence under Section 304 of the IPC is not made out. Similarly placed co-accused Parveen Kumar has been granted regular bail by this Court vide order dated 03.11.2021 passed in CRM-M-33579-2020. The trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner actively participated in the commission of offences and caused injuries to complainant Kuldeep Singh and his brother Jaswinder Singh. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner including the medical opinion, parity with co-accused Parveen Kumar, who has been granted regular by this Court vide order dated 03.11.2020 and the fact that the trial is likely to take long time due to restrictions imposed to

prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

08.01.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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