

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

(I) **CRM-M-36857-2020 (O&M)**
Date of Decision:- 24.2.2021

Gurshavneet Singh @ Ankul @ Guru ... Petitioner

Versus

State of Punjab ... Respondent

(II) **CRM-M-38482-2020 (O&M)**

Birbal Singh @ Balla ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. L.S.Sekhon, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Malkeet Singh.

Mr. Amardeep Singh Mann, Advocate, for the complainant.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of the above mentioned two petitions
wherein petitioners Gurshavneet Singh @ Ankul @ Guru and Birbal

Singh @ Balla, seeking grant of regular bail in a case registered vide FIR No. 48, dated 11.5.2020, Police Station Joga, District Mansa, under Sections 302, 307 and 34 IPC.

2. The FIR was lodged at the instance of Ram Singh wherein it is alleged that there is a dispute regarding property between him and his uncle and on account of which his uncle Nachattar Singh, his son accompanied by two unidentified persons had challenged them not to irrigate land as the same is yet to be divided and had raised a quarrel with them. It is alleged that his uncle's son Balwinder Singh threw 'pepper powder' on account of which they were unable to see as the 'pepper powder' entered into their eyes. Subsequently when they were proceeding to lodge complaint with the police, they received a telephone call from Kala Singh, Panch to the effect that he was hearing noises of hue and cry from the complainant's residence which were being raised by women folk. The complainant and others immediately rushed back to their house where they saw that Nachattar Singh armed with '*gandasa*', his son Balwinder armed with a '*kirpan*' and two unidentified persons who were also armed with '*gandasa*' were causing injuries to complainant's mother Raj Kaur and to complainant's sister Shinder Kaur. When the complainant raised alarm, the said persons fled away from the spot. It is further the case of prosecution that on account of the injuries sustained by complainant's sister, she could not survive.
3. Learned counsel for the petitioners has submitted that none of the petitioners is named in the FIR and both of them have falsely been

nominated subsequently on the basis of supplementary statement of complainant recorded on 14.5.2020 and also pursuant to statement of injured Raj Kaur recorded on 5.7.2020 who both stated that they had subsequently “come to know” about the identity of the two unidentified persons to be friends of Balwinder Singh namely Gurshavneet Singh @ Ankul @ Guru and Birbal Singh @ Balla (petitioners). It has been submitted that the petitioners have been nominated simply because they happen to be friends of Balwinder Singh son of Nachattar Singh and that both being young persons deserve the concession of bail as the conclusion of trial is likely to take lot of time.

4. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that since the consistent statements i.e. the supplementary statement of the complainant and the statement of Raj Kaur recorded during investigation are to the effect that it is the petitioners who were accompanying Nachattar Singh and his son, no case for grant of bail is made out. Learned State counsel has further informed that Gurshavneet Singh @ Ankul @ Guru also happens to be involved in one more case under Section 307 IPC. It has however, been informed that the petitioners as on date have been behind bars since the last about 9 months and that as on date none out of the cited 24 PWs has been examined.
5. I have considered rival submissions addressed before this Court.
6. It is not disputed that none of the petitioners is named in the FIR and came to be nominated subsequently on the basis of a supplementary

statement of the complainant and a statement under Section 161 Cr.P.C. of injured Raj Kaur. The said allegations regarding involvement of the petitioners would be required to be substantiated during the course of trial and would be open to debate as to why the petitioners could not be identified at the spot when they are stated to be friends of Balwinder Singh and in every possibility the complainant would have seen them even on earlier occasions. In any case, since the petitioners have already undergone a substantial period of 9 months in custody and conclusion of trial is likely to take time as not even a single PW out of the cited 24 PWs has been examined, further detention of the petitioners will not serve any useful purpose. Both the petitions, as such, are accepted and the petitioners are ordered to be released on bail subject to their furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

February 24, 2021
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No