

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

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CRM-M-44559-2021 (O&M)

Date of Decision: 01.11.2021

Gursewak Singh @ Lala

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Yashpal Thakur, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by SI Gulzari Lal.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.111, dated 03.11.2017, Police Station Bassi Pathana, District Fatehgarh Sahib, under Sections 302, 341, 148, 149 & 120-B IPC.
2. The FIR in question was lodged at the instance of Gurdev Singh (father of deceased) wherein it is alleged that on 22.10.2017 at about 12 noon his son Jaspreet Singh (deceased) along with Jagroop Singh went on motorcycle bearing registration No.PB-65-AF-6205 belonging to Karigar Bhura Singh to Bassi Pathana. While they were returning back, they were waylaid by 7-8 unknown persons who had come on 3 motorcycles and who surrounded the complainant's son and others accompanying him. The unknown persons are alleged to be armed with 'swords' and

‘iron rods’. While the motorcycle was being driven by complainant’s son Jaspreet Singh, Jagroop Singh and Karigar Bhura Singh were sitting on the pillion seat. Jagroop Singh however, managed to run away from the spot. The unknown persons gave blows with ‘swords’ and ‘iron rods’ to Jaspreet Singh and also to Karigar Bhura Singh. Jagroop Singh, who had run away from the spot, informed the complainant telephonically. Thereafter, the complainant arranged for a vehicle and rushed Jaspreet Singh and Karigar Bhura Singh to Bawa Nursing Home Bassi Pathana for medical treatment from where Jaspreet Singh was referred to PGI Chandigarh and where he remained admitted till 2.11.2017 and ultimately expired.

3. Learned counsel for the petitioner has submitted he is not named in the FIR and in fact the identity of the assailants was never disclosed and it is only on 18.07.2019 that the prosecution claims that one Jaswinder Singh made an extra judicial confession before Balwinder Singh naming all the accused including the petitioner as the assailants and that it is further the case of prosecution that another extra judicial confession was made by all the accused together before aforesaid Balwinder Singh on the very next day i.e. on 19.07.2019. Learned counsel has also referred to the cross-examination of PW-3 Jagroop Singh wherein he has categorically admitted that he did not know any of the accused prior to 19.07.2019. Learned counsel has submitted that the case of prosecution is based mainly on the alleged extra judicial

confession which is a weak type of evidence and cannot be acted upon unless there is strong corroborative evidence. It has further been submitted that the petitioner was initially kept in Column No.2 and was subsequently summoned with the aid of Section 319 Cr.P.C.

4. Opposing the petition, learned State counsel has submitted that Jagroop Singh while in the witness box has clearly identified the accused and that in these circumstances, no case for grant of bail is made out. Learned State counsel has informed that the petitioner as on date has been behind bars since the last about 2 years and that he is also involved in 2 other cases.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that none of the assailants was identified by Jagroop Singh or the other injured Karigar Bhura Singh at the spot and it is only after 2 years of the occurrence that the police claims that the accused suffered extra judicial confessions and on the basis of which the petitioner has been nominated. It will be debatable as to whether such like extra judicial confession can be said to be sufficient to hold the accused guilty or not or to establish their complicity. In any case, the petitioner as on date has been behind bars for a substantial period of about 2 years and conclusion of trial is likely to take time as only 6 out of the cited 34 PWs have been examined till date. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing

bail bonds to the satisfaction of learned trial Court/Chief Judicial
Magistrate/Duty Magistrate concerned.

01.11.2021
Vimal

(GURVINDER SINGH GILL)
JUDGE

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