

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

211 (2)

CRM-M-1891-2022 (O&M)

Date of Decision: 16.05.2022

SAWINDER SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. S.K. Passi, Advocate
for the petitioner.

Mr. Amarjit Kaur Khurana, DAG, Punjab.

Mr. Vikas Gupa, Advocate for the complainant.

VINOD S. BHARDWAJ, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No.71 dated 28.05.2021 under Sections 307, 506, 148 and 149 of the Indian Penal Code, 1860 (Sections 302, 212, 323, and 452 of the IPC added later on) registered at Police Station Sirhali, District Tarn Taran.

Briefly, the case of the prosecution is that Gurmeet Singh-brother of the deceased Kuldeep Singh had approached the police station and informed that when he alongwith his brother Kuldeep Singh were coming towards their house on motorcycle and had reached in front of the gate of their house, then Gurjant Singh son of Sukhdev Singh armed with *Dang*, Gurwinder Singh son of Sawinder Singh armed with *Dang*, Rashpal Singh son of Sukhdev Singh armed with rifle 12 DBBL, Angrej Singh son of Desa Singh armed with *Dang*, Manjit Singh son of Santokh Singh armed

with *Dang*, Jaswinder Singh son of Jagir Singh armed with *Kirpan*, Daler Singh son of Samma Singh armed with *Dang*, Sukhchain Singh son of Desa Singh armed with *Dang*, Japsimran Singh son of Avtar Singh armed with *Dang*, Desa Singh son of Ajit Singh armed with *Dang*, Sawinder Singh son of Ajit Singh armed with *Dang*, Sukhdev Singh son of Ajit Singh armed with *Dang*, Gurwinder Singh son of Jaswinder Singh armed with *Dang* and Gurpreet Singh son of Dilbag Singh armed with *Dang* were standing there and on seeing the victim Gurmeet Singh and deceased Kuldeep Singh, they raised a *Lalkara* to teach a lesson for selling the electricity wires and all the assailants caused injuries which resulted in the death of Kuldeep Singh.

Learned counsel for the petitioner has submitted that the incident in question had taken place on 27.05.2021 and the FIR in question was registered on 28.05.2021. The offence under Sections 302 of the IPC was attracted on 10.06.2021 after the death of Kuldeep Singh. He contends that the petitioner is 73 years of age and that even as per the allegations of the prosecution, the petitioner is alleged to have given *Dang* blow to the complainant i.e. Gurmeet Singh. He has not been attributed any injury to the deceased Kuldeep Singh. He submits that the complainant Gurmeet Singh has deliberately and maliciously named each and every person in the instant case so as to implead all the family members. He further submits that even though the complainant alleges that *Dang* blows were given to him by the petitioner alongwith other assailants, however, no Medico-legal Report has been placed on record to substantiate the ocular version with any medical report/record. It is contended that in the absence of any injury being sustained by the victim, and the petitioner not being attributed any injury

caused to the deceased, his presence at the spot is highly improbable and doubtful. He also places reliance on the order dated 10.05.2022 passed in the matter of similarly placed co-accused Sukhdev Singh in CRM-M-2457-2022.

Per contra, learned State counsel vehemently contends that the petitioner was part of any unlawful assembly, which in furtherance of a conspiracy, had opened attacked upon victim Gurmeet Singh and deceased Kuldeep Singh. She further contends that, as per instructions, the petitioner has undergone actual custody of nearly one year. However, she does not dispute the fact that the case of petitioner is at par with co-accused Sukhev Singh.

I have heard the learned counsel for the respective parties and have gone through the record with their able assistance.

It is apparent from the perusal of the case as also the allegations levelled against the petitioner that no injury has been attributed to the petitioner being caused to the deceased Kuldeep Singh. Besides, injuries alleged to have been caused to the injured-complainant Gurmeet Singh are not corroborated or substantiated by any medical evidence. Moreover, the petitioner is more than 73 years of age and has already undergone more than 10 months of actual custody. The trial is at initial stage as the final report has been presented so far and the charges have not been framed till date. The complicity of the petitioner in the commission of the offence shall be seen at the time of trial. No further interest of justice would be served by continued incarceration of the petitioner.

Hence, taking into consideration the aforementioned

circumstances and the stage of trial as also the period of custody already undergone by the petitioner as well as the advanced age of the petitioner, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

16.05.2022
rajender

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No