

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

CRM-M-3729-2022

Date of decision : 04.02.2022

Kulwinder Singh @ Goggi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ravinder Singh Bains, Senior Advocate with
Mr.Mohan Singh Chauhan, Advocate
for the petitioner.

Mr.Karanbir Singh, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail during the pendency of trial in FIR no.57 dated 04.05.2021 registered under Sections 324, 341, 323, 148, 149 IPC (Sections 326, 325, 307 IPC added later on) at Police Station City Budhlada, District Mansa.

The FIR in the present case has been registered on 04.05.2021 against five persons on the statement of Amandeep Singh who had stated that he and his brother had taken 10 acres of land on lease and they were sowing cotton crops and after finishing work, they were heading home when, the petitioner armed with *gandasa* and the other co-accused persons arrived and the petitioner inflicted a blow with reverse side of the *gandasa* upon brother of the complainant and further, inflicted injuries upon his head and eye. It had been further alleged that the unknown assailants also gave

gandasa blow on the head of the brother of complainant, i.e. Sandeep Singh. Injuries were also caused to the complainant and the present petitioner was also stated to have inflicted *gandasa* blow on the left side of ankle of the complainant.

Learned senior counsel appearing for the petitioner has vehemently argued that the present case is a case of false implication inasmuch as a perusal of the MLRs (particularly on page 24) would show that the said MLR was done on 03.05.2021 in which, it has been mentioned that unknown persons had attacked the complainant and his brother. It has further been submitted that subsequent to the Fir being registered, the petitioner has been named with whom, even as per the prosecution case, complainant had previous enmity. It is further submitted that a perusal of the MLR of Amandeep Singh would show that injury, which has been attributed to the petitioner, was on the left ankle, i.e. on a non-vital part and although, the same is stated to be grievous but that is on account of a mild fracture. It is further submitted that although injuries no.1 and 3 on the person of Sandeep Singh have been declared to be grievous and when combined, are stated to be dangerous to life but the said two injuries, i.e. injury no.1 and 3 could not have been specifically attributed to the petitioner inasmuch as, as per the FIR even the unknown persons are stated to have given *gandasa* blow on the head of Sandeep Singh. It is further argued that a perusal of the FIR would show that injury no.1 attributed to the petitioner is from the reverse side of the *gandasa* and even in case the prosecution version is taken to be true, the said fact would prove that the petitioner had no intention to cause any injury which could be dangerous to life. It is further argued that the petitioner has been in custody since

21.08.2021 and there are 19 prosecution witnesses and none of them have been examined, and the orders dated 22.11.2021 and 16.12.2021 have been highlighted to state that on both the said dates PWs Amandeep Singh and Sandeep Singh were absent, despite due service. On account of what has been stated, it is submitted that it is the complainant party, who are delaying the trial. It is also submitted that in fact, the petitioner is not involved in any other case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that specific injury has been attributed to the petitioner as per the FIR and thus, the petitioner does not deserve the concession of regular bail.

This Court has heard learned counsel for the parties and has perused the paper book.

It is not in dispute that as per the medical report (particularly page 24) it has been stated that unknown persons had assaulted the injured Sandeep Singh. The said medical examination has taken place on 03.05.2021 and the FIR has been registered subsequently, in which the petitioner, with whom the complainant party had previous enmity with, as per the case of the prosecution, has been named. The argument of learned senior counsel to the effect that the petitioner has been falsely implicated cannot be summarily rejected and the said issue would be a debatable question at the time of trial. The injury which has been attributed to the petitioner qua Amandeep Singh is on the left ankle, which is a non-vital part and although, there are injuries on vital parts of Sandeep Singh but since as per the FIR, injuries have been attributed to the unknown persons with *gandasa* blow on the head of said Sandeep Singh, thus, it would be a matter

of trial as to who had specifically inflicted injuries no.1 and 3 upon Sandeep Singh. In the FIR it has been stated that injury no.1 given by the petitioner was from the reverse side of the *gandasa*. The petitioner has been in custody since 21.08.2021 and there are 19 prosecution witnesses and none of them have been examined. As per the orders dated 22.11.2021 and 16.12.2021, PWs Amandeep Singh and Sandeep Singh have been served but they have not come present in the Court to give evidence, shows that the complainant party are delaying the trial. The petitioner is stated to be not involved in any other case.

Keeping in view the above said facts and circumstances, the present petition for regular bail is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

It is made clear that in case the petitioner tries to threaten or influence any of the witnesses of the complainant party, then it would be open to the State to move an application for cancellation of present bail.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

February 04, 2022

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No