

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Date of decision : 05.08.2022

1.

CRM-M-11751-2022(O&M)

Mangal Singh

... Petitioner

Versus

State of Punjab

... Respondent

2.

CRM-M-15329-2022

Kala Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.H.R. Bhardwaj, Advocate for
Ms.Navneet Kaur Chahal, Advocate
for the petitioner in CRM-M-11751-2022.

Mr.Tajeshwar Singh Sullar, Advocate
for the petitioner in CRM-M-15329-2022.

Mr.Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This order will dispose of two petitions filed under Section 439
Cr.P.C. for grant of regular bail to the petitioners in FIR no.197 daed
12.09.2021 registered under Sections 304, 34 IPC (Sections 302, 201 added
later on) at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar

Sahib.

The first petition, i.e. CRM-M-11751-2022 has been filed by Mangal Singh and the second petition, i.e. CRM-M-15329-2022 has been filed by Kala Singh.

Learned counsel for the petitioners in both the petitions have submitted that even as per the FIR, no injury suffered by the deceased has been attributed to the present petitioners and the injuries inflicted on the deceased are alleged to have been given by co-accused Karni Singh. It is submitted that as per the FIR version, the petitioner Mangal Singh along with Karni Singh and Raja Singh were quarreling and fighting with the Jeth (brothers-in-law) of the complainant namely, Lakhwinder Singh and Seepa Singh and Karni Singh was armed with a *dang* in his hand whereas the petitioner Mangal Singh was not stated to have any weapon in his hand and it was in that moment that the deceased tried to rescue his brother, when Karni Singh had given a *dang* blow on the head of the deceased-Gurmit Singh with full force on account of which, he fell down to the ground. It is further submitted that from a perusal of the FIR, it is apparent that there was a quarrel going on, which was not with the deceased and the deceased had come only to resolve the dispute and to rescue his brother when co-accused Karni Singh had given the said fatal injury all of a sudden at the time of said incident. It is stated that apart from the fact that the petitioners have not been alleged to have inflicted any injury upon the deceased even the incident had taken place suddenly on account of the deceased having intervened in the matter. It is further stated that no injury has been caused to the brothers-in-law of the complainant, i.e. Lakhwinder Singh or Seepa Singh or the complainant herself who was stated to be present at the time of

occurrence and there is no MLR qua the above said persons. It is also stated that the petitioner Kala Singh was not even named in the above said FIR and there was no allegation that there were some unknown persons present at the time of occurrence in the FIR. It is further stated that the complainant, on 13.09.2021, tried to improve the version given in the FIR, but even in the improved version she has not attributed any injury to either of the petitioners and has only introduced the name of Kala Singh (petitioner) in CRM-M-15329-2022 as one of the persons who was also present at the spot. In the said supplementary statement which is apparent from the DDR, (Annexure P-3) the complainant has changed the weapon which the said Karni Singh was carrying as initially she had stated that he was carrying a *dang* whereas in the said supplementary statement, she had stated that he was armed with a *dasti garari* (grinder) of motorcycle fitted in an iron pipe in his hands with which, he had given the fatal blow on the head of the deceased. Even motive behind the occurrence has been alleged against Karni Singh and it had been stated that Karni Singh had doubts that his paternal aunt Kuldeep Kaur had an illicit relationship with the deceased. No motive has been attributed to the present petitioners. It is further submitted that the petitioners have been in custody since 23.09.2021 and the investigation is complete and there are 23 witnesses and none of them have been examined and thus, the trial is likely to take time. It is stated that no recovery has been effected from the petitioners. It is further stated that although, the alleged incident is of 01.09.2021 but the FIR has been registered on 12.09.2021, thus, there is a delay of 11 days in registration of the FIR from the date of the alleged incident.

Learned State counsel, on the other hand, has opposed the

present petition and has submitted that the petitioners were also present at the spot during the incident in question when Karni Singh had inflicted a head injury to the deceased on account of which, the deceased had died. It is further submitted that against Kala Singh, there is one more case and thus, the petitioners do not deserve the concession of regular bail.

Learned counsel for the petitioner Kala Singh, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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

A perusal of the FIR would show that petitioner Kala Singh has not been named in the FIR and no injury has been attributed to petitioner Mangal Singh having been caused to the deceased. The injury inflicted on the deceased has been attributed to Karni Singh with *dasti dang* (stick).

There is no MLR with respect to any injuries suffered by Seepa Singh,

spot. As per the FIR, there was a quarrel going on between the petitioner Mangal Singh and Karni Singh, being on one side and Lakhwinder Singh and Seepa Singh on the other side when, the deceased had intervened and in that moment, Karni Singh had given a blow on the head of the deceased on account of which, he died. In the statement of the complainant, the incident is stated to be of 01.09.2021 whereas the complaint has been given on 12.09.2021 and FIR was registered on 12.09.2021, i.e., after a delay of 11 days. In the supplementary statement given by the complainant on 13.09.2021 as is apparent from the DDR (Annexure P-3 in CRM-M-11751-2022), the complainant has tried to improve her original version and has named petitioner Kala Singh as one of the persons who was present at the spot although, in the FIR, it has not been stated that there were any unknown persons who were also present. Even as per the said improved version, no injury has been attributed to the petitioners having been caused to the deceased. The weapon which Karni Singh was allegedly armed with, was earlier stated to be a *dang* (stick) but as per the supplementary statement was stated to be a *dasti grari* (grinder) of motorcycle fitted in an iron pipe. Even the motive behind the occurrence which has been alleged in the said supplementary statement is only qua Karni Singh and not against the petitioners. The petitioners have been in custody since 23.09.2021 and there are 23 witnesses and none of them have been examined and thus, the trial is likely to take time.

Keeping in view the above said facts and circumstances, both the petitions are allowed and the petitioner are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being

required in any other case.

However, it is made clear that in case, any act is done by the petitioners to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

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

August 05, 2022
Davinder Kumar

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