

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

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**CRM-M-15048-2022
Date of decision: 20.04.2022**

Gurmukh Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. K.S. Sidhu, Sr. Advocate with
Mr. Dushyant Sarvesh, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is the third petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.66 dated 25.06.2020 lodged under Sections 302, 307, 325, 506, 323, 148, 149 and 120-B IPC and Sections 25, 27, 29, 54 and 59 of the Arms Act, 1959 registered at Police Station Mulepur, Tehsil and District Fatehgarh Sahib.

Learned senior counsel for the petitioner *inter alia* contends that the petitioner has been falsely framed in the FIR in question on account of party faction in the village. He was neither present at the spot nor in any way associated with the crime in question. It has also been submitted that the delay of almost six hours in the lodging of the FIR from the time of alleged occurrence clearly hints at an embroidered version having been brought-forth by the complainant party. It has also been further submitted that a perusal of the FIR in question reveals that no specific role has been attributed to the

petitioner. He was alleged to have been armed with a kirpan, however, no sharp injury was received either by deceased Kulwinder Singh or by any of the five injured witnesses. Learned senior counsel has submitted that the petitioner has been now in custody since 30.06.2020 and there was no likelihood of the trial concluding in the near future as only three prosecution witnesses have been partly examined.

Per contra, learned State counsel while vehemently opposing the prayer and submissions made by the learned senior counsel for the petitioner, has drawn the attention of this Court to the allegations levelled in the FIR. It has been submitted that it is a matter of record that there was a dispute between the parties with respect to some panchayat land and a civil litigation qua the same was pending between them. Learned State counsel has controverted the submissions made by the counsel opposite that no role had been attributed to the petitioner in the crime in question. He has submitted that the name of the petitioner clearly stands reflected in the FIR in question. Learned State counsel has submitted that it is a case of ocular testimony and the complainant had categorically alleged that the petitioner was armed with a lethal weapon like kirpan and had attacked and inflicted injuries on his companions who were present at the spot at the time of alleged occurrence. Learned State counsel has submitted that no doubt deceased Kulwinder Singh died on account of fire arm injuries sustained by him, however, a perusal of the FIR left no manner of doubt that all the accused including the petitioner arrived at the place of occurrence together in three different vehicles, armed with lethal and deadly weapons like kirpans and fire arms and attacked the complainant

party without any provocation. Learned State counsel still further submitted that in the occurrence in question as many as five persons received serious injuries at the hands of the accused including the petitioner and one person lost his life. It has also been submitted that the evidence is still underway and all the five stamped witnesses are yet to be examined before the trial Court and in case the petitioner is extended the concession of bail, there is every likelihood that he could try to influence the witnesses to depose in favour of the accused party. Learned State counsel has further submitted that no doubt the petitioner has been in custody since 30.06.2020, however, the conclusion of the trial has been delayed on account of outbreak of the pandemic.

I have heard learned counsel for the parties and perused the material placed on record.

The case in hand is based on eye witness account. On the fateful day as per the allegations levelled in the FIR in question, all the accused including the petitioner arrived at the spot in two cars and a tractor wielding deadly weapons like 12 bore rifles, revolvers, kipan and sticks and thereafter opened unprovoked attack on the complainant side which led to the death of Kulwinder Singh and injures on five persons persons who were present at the spot. Prima facie it appears to be a premeditated attack carried out by all the accused including the petitioner who seemed to be sharing a common intention which fact finds fortified from the nature of arms which the accused were carrying at the time of alleged occurrence. As instructed by the learned State counsel since material witnesses which include the stamped witnesses are yet to be examined, this Court in the wake of the stage of the trial

coupled with the prima facie role attributed to the petitioner does not deem it fit to extend the concession of bail to the him. Accordingly, the instant petition is dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

20.04.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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