

IN THE HIGH COURT OF PUNJAB & HARYANA A
CHANDIGARH

(216)

CRM-M-23151-2021
Date of decision:- 19.01.2022

Sukhmandar Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kanwaljeet Singh Brar, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Mr. Amaninder Singh Sekhon, Advocate for the complainant.

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.266 dated 08.12.2020 registered for offences under Sections 452, 325, 506, 323, 427, 148 and 149 of the Indian Penal Code, 1860 (Section 313, IPC was added later on) at Police Station City Kotkapura, District Faridkot, Annexure P-1.

Criminal law was set in motion on the basis of statement of Dalbir Singh on the allegation that at about 09:45 P.M. on 04.12.2020 when he was going to sleep, three persons broke open the door of his house after knocking. Sukhmandar Singh (present petitioner) armed with a stick, his sons, namely, Gurpreet Singh @ Happy armed with iron rod and Jashan Singh armed with rod, Gursewak Singh and Janta Singh armed with Khanda and Nisha armed with iron rod and sticks, entered the house. Sukhmandar

Singh, instigated the accused to catch hold of the family members and teach them a lesson, as they had grudge against the family. Janta Singh struck with a khanda on the index finger of the complainant, Gurpreet Singh @ Happy hit with an iron rod on his right wrist and the third blow was given by Jashan Singh, which hit him on his eye. Fourth blow was given by Gursewak Singh on his back. When his daughter-in-law, Balwinder Kaur, who was pregnant, came forward to save him, then Sukhmandar Singh and Nisha hit her in her stomach and the other accused physically assaulted them. On their raising an alarm, all the accused fled from the spot. The reason behind the attack was an earlier altercation with Sukhmandar Singh and others.

Counsel for the petitioner contends that it is a case of version and cross version and DDR No.45 was lodged by accused, Gurpreet Singh, who is son of the petitioner, on 08.12.2020. It is his argument that there is an unexplained delay of more than four days in the lodging of the FIR. He submits that the offence under Section 313, IPC was added vide DDR dated 07.01.2021 and the essential ingredients of Section 312, IPC are not satisfied as there was no voluntary act on the part of the petitioner. Still further, he contends that the statements of all the material witnesses have been recorded and the petitioner, who has an unblemished past and is in custody since 09.12.2020, deserves to be released on bail.

Per contra, learned State counsel, who is assisted by Mr. Amaninder Singh Sekhon, Advocate, counsel for the complainant, have opposed the petition, and submitted that the petitioner was well aware of

the pregnancy of Balwinder Kaur, and she was deliberately hit in the stomach. Upon instructions from, ASI, Gurmail Singh, State counsel has not been able to dispute the clean past of the petitioner. Counsel for the complainant has also referred to the DDR recorded on 07.01.2021, whereby the offence under Section 313, IPC was added.

I have considered the arguments addressed by counsel for the parties.

Keeping in view the above circumstances, the unblemished past of the petitioner, his period of custody of more than one year and one month, the fact that all material witnesses have been examined and the trial is likely to take time to conclude due to the outbreak of the third wave of the pandemic, this Court is of the view that the petitioner deserves to be released on bail.

Without examining the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner, namely, Sukhmandar Singh, is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

19.01.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No