

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

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Date of decision: 13.07.2022
CRM-M-23503-2022

NIKKA @ SUKHJINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB

..Respondent

CRM-M-23857-2022

DHARMINDER SINGH ALIAS GOLDI

....Petitioner

Versus

STATE OF PUNJAB

..Respondent

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

Present : Mr. Manu Loona, Advocate for the petitioner.
(in CRM-M-23503-2022).

Mr. J.S. Thind, Advocate for the petitioner.
(in CRM-M-23857-2022).

Ms. Amarjit Kaur Khurana, DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

1. By means of this common order, the above-mentioned two petitions shall stand disposed off as both the petitions arise out of same FIR.

2. The instant petitions have been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioners in case bearing FIR No.166 dated 30.09.2020 registered

under Sections 307, 323, 148, 149 of the Indian Penal Code, 1860 at Police Station City Jalalabad, District Fazilka.

3. Learned counsel for the petitioners *inter alia* contend that as per the allegations levelled in the FIR, the incident in question is stated to have taken place at 2:00 am on the intervening night of 12.09.2020 and 13.09.2020. One Binder Singh, neighbour of the complainant is claimed to have informed the complainant that injuries have been caused by some unknown assailants on Vijay Partap son of the complainant and that he is lying at Dhani of Ranjit Kaur (petitioner in CRM-M-52544-2021). The complainant claims to have met Ranjit Kaur who informed that the assailants had caused injuries to his son and threatened to throw him into the septic tank and that they have got Vijay Partap free from the clutches of the assailants and put him on a cot. The complainant claims to have thereafter got admitted his son to the Hospital where as many as 06 injuries are recorded to be present on the person of Vijay Partap. A perusal of the same shows that 05 of the said injuries are in the nature of abrasions. An abrasion was noticed over the skull which was eventually determined as serious thus attracting Section 307 IPC. Learned counsel for the petitioners contends that final report in this case was filed on 13.12.2021. He further submits that even though the incident in question is stated to have taken place on 13.09.2020, however, the FIR in the said case was registered after a delay of nearly 17 days. It is further argued that eight persons were nominated as accused out of which 04 persons were found to be innocent and two persons have already been granted bail vide order

dated 31.03.2022 passed in CRM-M-52544 of 2021 and CRM-M-4062 of 2022 respectively. He further submits that despite a lapse of more than one and half years since the registration of the FIR, the statement of the injured Vijay Partap has so far not been recorded to ascertain the role, if any, of any of the assailants and the final report filed by the Police does not attribute any specific role or injury to the petitioners. It is also submitted that petitioners were in custody since October 2021 and have already undergone more than 09 months of actual custody.

4. Ms. A.K. Khurana, DAG, Punjab controverts the claim made by the petitioners and submits that the petitioners had actively participated and had caused injuries to Vijay Partap-victim and the injury was also caused on his head thus endangering his life. She further submits that statement of Vijay Partap is yet to be recorded and that specific roles pertaining to the petitioners herein shall be ascertained thereafter. She however could not give any satisfactory explanation as to why the said statement has not been recorded despite the FIR having been registered on 30.09.2020 and a lapse of more than one and half year since then. It is also not disputed by her that the petitioners are in custody since October, 2021 and have already been in custody for more than 09 months. Charge has although been framed, however, no evidence has been recorded so far. It is further not disputed that out of the 08 persons originally suspected and nominated as accused, 04 have been found innocent during the course of investigation and only 04 persons were found by the Investigating Agency to be involved in the commission of the offence of which 02

other persons have already been granted concession of regular bail. She , however, submits that the petitioner Dharminder Singh alias Goldi is involved in another FIR whereas there are about 06 cases against the petitioner Nikka @ Sukhjinder Singh. She further points out vide rapat No. 24 dated 23.12.2020, the offences punishable under Section 148 and 148 IPC have been deleted and Section 34 IPC has been added.

5. Learned counsel appearing on behalf of the petitioner- Nikka @ Sukhjinder Singh however contends that a mere registration of an FIR would not be a sufficient basis to preliminary deny a concession of bail to an accused, even when there is no specific attribution against the petitioner in the investigation that has been concluded so far.

6. I have considered the arguments advanced by the counsel for the parties.

7. Taking into consideration the facts noticed above, the stage of trial, and also the actual custody of the petitioners and absence of any specific role in the investigation conducted so far, I deem it appropriate to enlarge the petitioners on bail.

8. Accordingly, the present petitions are allowed and the petitioners are admitted on regular bail subject to their furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

9. It is made clear that the petitioners shall not extend any threat and shall not influence any prosecution witnesses in any manner

directly or indirectly.

10. 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.

JULY 13, 2022
vishal sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

:

Yes/No
Yes/No