

208 (2<sup>nd</sup> case)

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-22243-2020 (O&M)  
Date of decision : 10.08.2022

Balbir Singh and another

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Nitin Meel, Advocate  
for Mr. K.B. Raheja, Advocate,  
for the petitioners.

Mr. Avinit Awasthi, AAG, Punjab.

**MAHABIR SINGH SINDHU, J.**

Second petition has been filed under Section 439 Cr.P.C. for grant of bail pending trial to the petitioners in FIR No.16 dated 12.02.2019, under Sections 302, 323, 148, 149, 211, 193, 182, 34 of the Indian Penal Code, 1860, registered at Police Station Makhu, Distt. Ferozepur.

Brief facts of the case are that on the statement of co-accused, Veer Singh, FIR No. 16 (*ibid*), was registered under Sections 302, 323, 148, 149 IPC, to the effect that on the fateful day, he along with Balbir Singh, Amrik Singh and maternal uncle Boor Singh had gone on motorcycle for bringing meals for Sukhwinder Kaur, Dyal Singh and Mukhtiar Singh, who were admitted in Civil Hospital, Makhu. Kesar Singh told them that the matter is getting more intensified. Thereafter complainant-Veer Singh along with Boor Singh,

Amrik Singh and Balvir Singh left for their village on motorcycles. His elder brother Mukhtiar Singh had warned them not to go through main road as the opponents may cause harm.

When they reached near Munjal Valley Puli, 8 to 10 persons were found present on which they turned around both motorcycles and left for village through Amir Shah, Dib Wala, on which the said persons chased them in a car and a motorcycle. The assailants came from backside and hit their car against the motorcycle being driven by complainant-Veer Singh, while his *mama* Boor Singh and Balbir Singh were riding pillion. They also pelted a glass bottle containing fuel on Boor Singh. Resultantly, they fell from the motorcycle. All the assailants, namely, Kesar Singh armed with a *Kappa*, Major Singh armed with *Gandasi*, Kikar Singh armed with *Danda*, Rajinder Singh, Buta Singh, Sona Singh, Darshan Singh, Bagicha Singh and Balwinder Singh, all residents of village Tibbi Ranga along with other 2-3 unidentified persons, all armed with *Dandas*, *Sota* and swords, in connivance with each other, attacked with their respective weapons and inflicted injuries on their person. Boor Singh was given a *Kappa* blow on rear portion of his head and started bleeding. They all rushed towards the fields due to fear and then got admitted in Civil Hospital Makhu. Ultimately, Boor Singh succumbed to the injuries. Complainant Veer Singh and Balbir Singh were under treatment at Community Health Centre, Makhu. The motive in the present case is that on earlier occasion, there had been a clash with the aforesaid persons and due to that reason, they inflicted injuries.

It is worthwhile to mention here that prior to lodging of the above mentioned FIR by the complainant, another FIR No.14 dated 09.02.2019 was registered under Sections 452, 323, 427, 148, 149 IPC at PS Makhu, Ferozepur, on the statement of Balbir Singh against Kesar Singh, Resham Singh, Pappu Singh, Nirmal Singh, Sewak Singh, Major Singh, Kikar Singh, Rajinder Singh, Gurdial Singh, Raj Singh, Bhajan Singh, Paramjit Singh, Buta Singh, Sona Singh Darhsan Singh, Bagicha Singh, Balwinder Singh, Puran Singh, Jaswinder Singh, Husan Singh, Rajinder Singh, Kulwinder Singh, Paramjit Kaur, Harmesh Singh, Harbans Kaur, Kesar Singh, Balwinder Singh, Kikkar Singh, Buta Singh, Balwinder Singh son of Mahanta Singh, all residents of village Chak Tibbi Ranga for beating Salwinder Kaur, Biba Bai, Balbir Singh, Mangat Singh & Sukhwinder Kaur.

However, on the Statement of Sukhwinder Kaur wife of Mukhtiar Singh and daughter of deceased Boor Singh, DDR No.21 was registered alleging that Veer Singh, complainant had told his wife that he, in connivance with Balbir Singh, Amrik Singh and Inderjit Singh had murdered Boor Singh. On the basis of DDR, offences under Sections 211, 193, 182, 34 IPC were added and Sections 323, 148, 149 IPC were deleted in the aforesaid FIR.

This Court, on 02.09.2021, while granting interim bail to the petitioners, passed the following order:-

*“Contends that for the last five occasions i.e. 15.03.2021, 05.04.2021, 27.04.2021, 16.07.2021 and 11.08.2021, repeatedlyailable warrants were issued against Constable Ranjit Singh & ASI Gurbachan Singh, but none of them turned up and*

*as such prosecution is deliberately delaying the trial. Also contends that petitioners were implicated on the basis of statement of Sukhminder Kaur @ Satwinder Kaur, but while appearing as PW-2, she did not support the prosecution case.*

*Learned State counsel seeks time to verify the above factual position.*

*Posted on 16.11.2021.*

*In view of above, let petitioners (Balbir Singh and Inderjit Singh) be released on interim bail in this case on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.”*

Learned counsel, on instructions from petitioners, submits that petitioners were granted interim bail on 02.09.2021 and since then, they are regularly appearing before learned trial Court. They have not misused the concession of interim bail granted by this Court and as such, there is no apprehension of petitioners tampering with the evidence or influencing the course of trial. Also contends that till date, out of 29 prosecution witnesses, only 12 have been examined and now the trial is pending for 30.08.2022. Further submits that petitioners are not involved in any other case.

The above factual position is duly acknowledged by learned State counsel, on instructions, that there is no apprehension of petitioners tampering with the evidence or influencing the prosecution witnesses in any manner, in case, they are granted bail on regular basis.

In view of the above, this Court is of the opinion that sending the petitioners in custody at this stage would not serve any purpose.

Consequently, the present petition is allowed and interim bail granted vide order dated 02.09.2021, is made absolute. Petitioners be admitted to bail on their furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

Petitioners shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

The above observations may not be construed as an expression of opinion on the merits of the case.

It is clarified that in case there is any misuse of concession of bail on the part of the petitioners, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

10.08.2022

atulsethi

(MAHABIR SINGH SINDHU)

JUDGE

|                               |     |    |
|-------------------------------|-----|----|
| Whether speaking / reasoned : | Yes | No |
| Whether Reportable :          | Yes | No |