

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

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**CRM-M-30050-2022
Date of decision: 20.07.2022**

SUKHCHAIN SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

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

Present : Mr. Sunny Saggar, Advocate and
Mr. Tajeshwar Singh Sullar, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No.71 dated 28.05.2021 under Sections 307, 506, 148 and 149 of the Indian Penal Code, 1860 (Sections 302, 212, 323, and 452 of the IPC added later on) registered at Police Station Sirhali, District Tarn Taran.

2. Briefly, the case of the prosecution is that Gurmeet Singh brother of the deceased Kuldeep Singh had approached the police station and informed that when he alongwith his brother Kuldeep Singh were coming towards their house on motorcycle and had reached in front of the gate of their house, then Gurjant Singh son of Sukhdev Singh armed with Dang, Gurwinder Singh son of Sawinder Singh

armed with Dang, Rashpal Singh son of Sukhdev Singh armed with rifle 12 DBBL, Angrej Singh son of Desa Singh armed with Dang, Manjit Singh son of Santokh Singh armed with Dang, Jaswinder Singh son of Jagir Singh armed with Kirpan, Daler Singh son of Samma Singh armed with Dang, Sukhchain Singh son of Desa Singh armed with Dang, Japsimran Singh son of Avtar Singh armed with Dang, Desa Singh son of Ajit Singh armed with Dang, Sawinder Singh son of Ajit Singh armed with Dang, Sukhdev Singh son of Ajit Singh armed with Dang, Gurwinder Singh son of Jaswinder Singh armed with Dang and Gurpreet Singh son of Dilbag Singh armed with Dang were standing there and on seeing the victim Gurmeet Singh and deceased Kuldeep Singh, they raised a Lalkara to teach a lesson for selling the electricity wires and all the assailants caused injuries which resulted in the death of Kuldeep Singh.

3. Learned counsel for the petitioner has submitted that the incident in question had taken place on 27.05.2021 and the FIR in question was registered on 28.05.2021. The offence under Sections 302 of the IPC was attracted on 10.06.2021 after the death of Kuldeep Singh. He contends that the petitioner is 38 years of age and that even as per the allegations of the prosecution, the petitioner is alleged to have given Dang blow to the complainant i.e. Gurmeet Singh on the waist. However, even the said injury is not corroborated from MLR. He has not been attributed any injury to the deceased Kuldeep Singh. He submits that the complainant Gurmeet Singh has deliberately and maliciously named each and every person in the instant case so as to implead all the family members. He further submits that even though

the complainant alleges that Dang blows were given to him by the petitioner alongwith other assailants, however, no Medico-legal Report has been placed on record to substantiate the ocular version with any medical report/record. It is contended that in the absence of any corresponding injury being sustained by the victim, and the petitioner not being attributed any injury caused to the deceased, his presence at the spot is highly improbable and doubtful. He also places reliance on the order dated 10.05.2022 passed in the matter of similarly placed co-accused Sukhdev Singh in CRM-M-2457-2022 and order dated 16.05.2022 passed in CRM-M-1891 of 2022. He claims to be in custody since 12.01.2022.

4. Per contra, learned State counsel vehemently contends that the petitioner was part of any unlawful assembly, which in furtherance of a conspiracy, had opened attacked upon victim Gurmeet Singh and deceased Kuldeep Singh. He further contends that, as per instructions, the petitioner has undergone actual custody of more than six months. However, he does not dispute the fact that the case of petitioner is at par with co-accused Sukhev Singh and Sawinder Singh.

5. I have heard the learned counsel for the respective parties and have gone through the record with their able assistance.

6. It is apparent from the perusal of the case as also the allegations levelled against the petitioner that no injury has been attributed to the petitioner being caused to the deceased Kuldeep Singh. Besides, injuries alleged to have been caused to the injured-complainant Gurmeet Singh are not corroborated or substantiated by any medical evidence. Moreover, the petitioner is more than 38 years of

age and has already undergone more than 06 months of actual custody. The trial is at initial stage as the final report has been presented so far and the charges have not been framed till date. The complicity of the petitioner in the commission of the offence shall be seen at the time of trial. No further interest of justice would be served by continued incarceration of the petitioner.

7. Hence, taking into consideration the aforementioned circumstances and the stage of trial as also the period of custody already undergone by the petitioner as well as the advanced age of the petitioner, I deem it appropriate to allow the instant petition.

8. Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

9. It is made clear that the petitioner 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.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 20, 2022
vishal sharma

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