

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

289

CRM-M-30972-2022

Date of Decision: 13.12.2022

GURPREET SINGH

... Petitioner

VERSUS

STATE OF PUNJAB

... Respondents

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

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

This is a second petition filed under Section 439 of Criminal Procedure Code, 1973 seeking grant of regular bail to the petitioner in a case arising out of FIR No.71 dated 28.05.2021 under Sections 212, 452, 307,302, 506, 323, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Sarhali, District Tarn Taran, Punjab.

Briefly summarized the facts of the present case are that on 27.05.2021 at 9:30 AM complainant, alongwith his younger brother Kuldeep Singh aged about 30 years, was returning from the Bethak of Ex-Sarpanch Swaran Singh to his house on the motorcycle. When they reached outside the gate of their house, Gurjant Singh son of Sukhdev Singh armed with a *Dang*, Guwinder Singh son of Sawinder Singh armed with a *Dang*, Rashpal Singh son of Sukhdev Singh armed with 12 DBBL gun, Angrej Singh son of Desa Singh armed with a *Dang*, Manjit Singh son of Santokh Singh armed with a *Dang*, Jaswinder Singh son of Jageer Singh armed with a *Kirpan*, Daler Singh son of Soma Singh armed with a *Dang*, Sukhchain Singh, son of Desa Singh armed with a *Dang*, Harsimran Singh son of Avtar Singh armed with a *Dang*, Desa Singh son of Ajit Singh armed with a *Dang*, Sawinder Singh son of Ajit Singh armed with a *Dang*, Sukhdev Singh son of Ajit Singh armed with a *Dang*,

Gurwinder Singh, son of Jaswinder Singh, armed with a *Dang* and Gurpreet Singh (petitioner herein) son of Dilbag Singh armed with *Dang* were already present there. Rashpal Singh raised a *Lalkara* to catch hold of Kuldeep Singh and to teach him a lesson for stealing the electricity wires. Gurwinder Singh, Gurjant Singh, Angrej Singh, Manjit Singh and Daler Singh started giving *dang* blows on the head of Kuldeep Singh, who then fell down. As the complainant came forward to rescue Kuldeep Singh, Sukhchain Singh and Sukhdev Singh gave him *dang* blows. Rashpal Singh hit the DBBL rifle on the neck of Kuldeep Singh and Jaswinder Singh gave kick blows to Kuldeep Singh. Satwinder Singh also gave *dang* blow to the complainant and complainant fell down. The other assailants also gave *dang* blows to the brother of the complainant, whereas Gurwinder Singh and Gurpreet Singh dragged the complainant and his brother. Due to the impact of the injuries, Kuldeep Singh became unconscious at the spot and upon the complainant raising Roula (Alarm), all the assailants fled away with their respective weapons. Kuldeep Singh injured was immediately taken to Civil Hospital, Tarn Taran, wherefrom he was referred to Amritsar. Later on, during the course of his treatment Kuldeep Singh succumbed to his injuries, whereupon Section 302 of the IPC was added in the FIR vide DDR No.21 dated 10.06.2021.

Learned counsel for the petitioner contends that in the initial version, the petitioner was alleged to have dragged the complainant and his brother and had been attributed injuries by use of *Dang*. The petitioner herein was taken in to custody on 12.06.2021. Investigation in the case is complete and the challan/report under Section 173 of the Cr.P.C. has already been filed on 29.01.2022, as per which, the cause of death in the present case is “brain injuries” which are attributed to the other co-accused persons namely Gurjant Singh son of Sukhdev Singh, Angrej Singh son of Desa Singh, Manjeet Singh son of Santokh Singh and Daler Singh son of Soma Singh. The petitioner is alleged to have only given the injuries with hungies of *Dang*. He contends that the petitioner is a young boy of 21 years and that he has been implicated falsely in the present case. He further contends that the petitioner has no criminal antecedents and he is in custody since 12.06.2021 i.e. for the last one and a half year. Learned counsel for the petitioner further points out that out of

26 prosecution witnesses cited by the investigating agency, not even a single prosecution witness has been examined till date. As such, the trial of the case might take a long time to conclude.

Per contra learned State Counsel contends that the petitioner had actively participated along with 13 co-accused persons and had opened attack on the deceased Kuldeep Singh, who succumbed to the injuries sustained in the said incident. He further contends that there were total three injuries on the person of the deceased.

The learned State Counsel, however, could not controvert the fact that no witness has been examined so far in the present case before the trial Court and that the fatal injuries are not attributed to the petitioner.

Taking into consideration the circumstances noticed above such as the age of the petitioner, period of custody, the role attributed to him and also the fact that only three injuries are stated to have been found on the person of the deceased and as many as 14 persons have been nominated as accused, who had caused injuries with *Dang* blows and as per the concluded investigation of the prosecution, the fatal injuries are attributed to the other co-accused persons, I deem it appropriate to allow the present petition.

Consequently, the petitioner herein is ordered to be released on bail subject to his furnishing adequate bail/surety bonds to the satisfaction of the Illaqa/Duty Magistrate concerned.

Petition stands allowed accordingly.

13.12.2022

rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No