

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-35107-2021(O&M)
Date of decision : 22.08.2022

Shamsher Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Dr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Ashutosh Gupta, Advocate and
Ms.Mandeep Kaur, Advocate
for the petitioner.

Mr.P.S. Grewal, DAG, Punjab.

Mr.B.D. Sharma, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.142 dated 29.05.2021 registered under Sections 307, 452, 323, 324, 148, 149 IPC (Section 326 IPC added later on) at Police Station Sultanpur Lodhi, District Kapurthala.

Learned Senior counsel appearing for the petitioner has submitted that in the present case, the petitioner was arrested on 04.06.2021 and was granted interim bail vide order dated 24.11.2021 and thereafter was directed to surrender vide order dated 29.03.2022 and had surrendered on 29.03.2022 and since then the petitioner has been in custody and submitted that thus, the total custody of the petitioner is approximately 9 months and

not threatened either the complainant or any witnesses. It is also submitted that in the present case, even the petitioner has suffered injuries and for the said purpose, has referred to the FIR itself (moreso pages 13 and 15 of the paper book which are the part of the FIR) and has highlighted the fact that the MLR with respect to the petitioner having suffered injuries has been specifically mentioned in the FIR and has also referred to the version of the present petitioner which has been recorded on 04.06.2021, i.e. GD no.30 (Annexure P-3) and in the said version, the present petitioner has submitted that he was cleaning utensils in front of his house when the complainant party in the FIR attacked them and inflicted 4 injuries to him regarding which reference has been made to MLR dated 27.05.2021 (Annexure P-4). It is stated that the present case is a case of version and cross version and the petitioner is not involved in any other case. It is further stated that in the present case even challan has not been presented yet and thus, the conclusion of investigation and the trial is likely to take time. It is further submitted that even as per the reply filed by the State, the petitioner has been stated to be armed with a plunger and has given injuries on the right eyebrow and on the left eye. It is also stated that although in the FIR, the petitioner has been alleged to have given injuries on the mouth also but there is no injury on the mouth.

Learned State counsel as well as learned counsel for the complainant have opposed the present petition for regular bail and have submitted that in the present case, the complainant Sukha Singh had given a complaint dated 13.04.2016 to the Deputy Commissioner, Kapurthala, alleging illegal encroachment of the Panchayat land. It is further submitted that it is on account of the said complaint, the present petitioner and other

accused were aggrieved with him and have, thus, caused injuries to the complainant. It is also submitted that the injuries given by the present petitioner are not only grievous in nature but have also been declared to be dangerous to life. Learned counsel for the complainant has further submitted that the complainant has suffered medical expenses also and still has to continue with the treatment.

Learned senior counsel for the petitioner has submitted that without admitting his liability, the petitioner is ready to pay an amount of Rs.25,000/- to the complainant for his medical expenses. It is further submitted that as far as the complaint dated 13.04.2016 is concerned, the present petitioner has not been specifically named.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner was arrested on 04.06.2021 and thereafter was granted interim bail by a coordinate Bench of this Court vide order dated 24.11.2021 and was directed to surrender on 29.03.2022. As per case of the petitioner, he had surrendered on 29.03.2022 and since then he has been in custody, thus, the total custody of the petitioner is 9 months and 26 days. It is not the case of the State or the complainant that while the petitioner was on interim bail, he had threatened the complainant or any other witness. The petitioner is stated to be not involved in any other case. A perusal of the FIR would show that even the petitioner is stated to have suffered injuries and the factum of the MLR with respect to the petitioner has specifically been noticed at pages 13 and 15 of the paper book which are part of the FIR. The version given by the petitioner has been recorded on 04.06.2021 (Annexure P-3) as per which, the petitioner was cleaning utensils in front of his house

when the complainant party arrived and was armed with iron rods, *dangs* etc. and attacked the present petitioner and Arshdeep Singh gave a *datar* blow, which hit the bicep below his left shoulder and then Sukha Singh gave a *datar* blow which hit his left hand bicep and then, Mangal Singh gave an iron rod blow to him which hit on the palm of his left hand and Jarnail Singh gave a *dang* blow which hit the backside of his head. The MLR with respect to the petitioner has been produced on record as Annexure P-2 and as per which (page 26), 4 injuries have been suffered by the petitioner. Although, as per the FIR, the petitioner had also inflicted injuries on the mouth of the complainant but there was no injury found on the mouth of the complainant. The petitioner is stated to have given an injury on the right eyebrow and left eye which was stated to be dangerous to life.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case. The petitioner is also directed to prepare a demand draft of Rs.25,000/- in the name of the complainant / injured Sukha Singh and hand over the same to the Investigating Officer within a period 10 days from today and the Investigating Officer is also directed to hand over the same to the complainant after taking receipt.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

August 22, 2022
Davinder Kumar

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