

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-35567-2021 (O&M)
Date of Decision:- 29.3.2022

Harjit Singh Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vishal Khatri, Advocate, for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Kewal Singh.

Mr. Anand Kaushal, Advocate for
Mr. D.S.Gandhi, Advocate, for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.08, dated 7.2.2021, Police Station Valtoha, District Tarn Taran, under Sections 307, 323, 34 IPC.
2. Learned counsel for the petitioner has today placed on record copy of MLR of Mukhtiar Singh (petitioner's father) and opinion of Doctor. The same is taken on record.
3. The FIR in question was lodged at the instance of Harpreet Singh, wherein it is alleged that on 6.2.2021, at about 12 noon, he was

present at his house alongwith other members of his family. He along with his father Karan Singh were placing a cement pipe in the Government '*khal*'. However, the son of complainant's uncle i.e. Harjit Singh and other members of his family had been raising a dispute with the complainant's family with respect to the said '*khal*' which had earlier been got compromised by the Panchayat. However, despite the compromise, Harjit Singh and others did not let them place the pipe in the '*khal*' and used to raise a dispute. It is alleged that while they were placing the pipe in the '*khal*' on 6.2.2021, Harjit Singh came there carrying a '*datar*' and hit the same on the head of his father. Hira Singh who was also accompanying Harjit Singh and was carrying '*Bala*' also gave a blow with the same on the right arm of complainant's father. While the complainant's father was lying on the ground Baljeet Singh who was carrying a '*dang*' gave a blow with the same on the foot of complainant's father. Sajanpreet is also stated to have inflicted a blow with '*dang*' on the back of complainant's father. When his father raised alarm, complainant's mother, wife and sister-in-law rushed to the spot and shouted for help and thereafter the accused ran away from the spot.

4. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in any case it is a case where the genesis of occurrence has been suppressed inasmuch as the father of the petitioner has also sustained a 'grievous injury' in respect of which complainant's father was promptly got examined from the Government hospital within 1 ½ hour of the occurrence in

question. It has further been submitted that the petitioner has been behind bars since the last about 11 months and has a clean record and as such deserves the concession of bail.

5. On the other hand, learned State counsel assisted by learned counsel for the complainant has submitted that even if the contention of the petitioner as regards the existence of some injury on the person on his father is accepted, the said injury on petitioner's father is on non-vital part i.e. on his thigh whereas the injury on the person of complainant's father is on his head and has been opined to be an injury 'dangerous to life'. Learned State counsel has further submitted that during the course of inquiry the injury allegedly sustained by petitioner's father was found to be false. Learned State counsel has however, informed that the petitioner has been behind bars since the last about 11 months and is not involved in any other case. It has been informed that while challan has been filed, but charges are yet to be framed and as many as 21 PWs have been cited.
6. I have considered rival submissions addressed before this Court.
7. The occurrence in question is stated to have taken place at about 12 noon. A perusal of the MLR in respect of the complainant's father (Annexure P-6) would show that he had arrived at hospital at 12.30 pm and was found to have sustained the following two injuries:

- “1. A reddish contusion of 4x3cm in size present over the upper back. No swelling present.
2. A incised wound of 6cmx1cm in size present vertically on the middle part of the forehead extending to the frontal region of the skull. Wound

is bone deep. Margins are clear cut. Profuse bleeding present. H/o vomiting 3 episodes present.”

8. A perusal of MLR in respect of petitioner’s father i.e. Annexure P-3 would reveal that he had arrived in the hospital at 1.25 pm and was found to have sustained the following two injuries:

- “1. An incised wound 6.5 cm into 1.2 cm is present on the antero Lateral aspect of the right leg 16 cm below the patella transversely placed, wound is bone deep, fresh bleeding present. Advice x-ray.
2. Reddish contusion 10 cm into 2 cm on right scapular region. Obliquely placed.”

9. Injury No.1 has subsequently been opined to be ‘grievous injury’.
10. It is no doubt correct that the injuries sustained by the petitioner’s father are on non-vital part, but the fact remained that there is no explanation in respect of the said injury in the FIR and it can be said that the genesis of occurrence has been suppressed. The contention of the State counsel that version of petitioner’s side regarding injury to petitioner’s father having been found false, the injury to petitioner’s father cannot be looked into, cannot be accepted as petitioner’s father was taken to hospital promptly and it cannot be said that the accused had fabricated the injury immediately after occurrence and had concocted some cross-version. Given the fact that two persons i.e. one from each of the side has been injured and each of them has sustained two injuries and infact the injury sustained by petitioner’s father has also been opined to be a ‘grievous

injury’, it will certainly be debatable as to which of the party is an aggressor. The petitioner otherwise has been behind bars for a substantial period of 11 months and he is not stated to be involved in any other case. Conclusion of trial is likely to consume time inasmuch as the trial has not even commenced so far and as many as 21 PWs have been cited. In these circumstances, further detention of the petitioner is not justified. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

11. It is however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

29.3.2022

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No