

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CRM-M-34747-2022  
Date of decision : 16.08.2022

Tarsem Singh

... Petitioner

Versus

State of Punjab

... Respondent

***CORAM: HON'BLE MR.JUSTICE VIKAS BAHL***

Present: Mr. Vaibhav Narang, Advocate  
for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

Mr.Sandeep Sharma, Advocate and  
Mr.Nitin Narula, 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 case General Diary (GD) no.34 dated 25.05.2021 registered under Sections 326, 325, 34 IPC at Police Station Chattiwind, District Amritsar Rural arising out from the FIR no.115 dated 18.05.2021 registered under Sections 302, 341, 323, 34 IPC at Police Station Chattiwind, District Amritsar Rural.

Learned counsel for the petitioner has submitted that in the present case the petitioner had got FIR no.115 dated 18.05.2021 registered under Sections 302, 341, 323, 34 IPC against Shamsher Singh, Jaspal Singh and Rachpal Singh for having caused the death of the father of the

petitioner on the right side of his chest, left arm and head. It is further submitted that a cross version was got recorded by Shamsheer Singh on 25.05.2021, i.e., after a delay of 7 days from the date of registration of the FIR and as per the said cross version, the present petitioner has been alleged to have given one injury on the right arm wrist which is a non-vital part of the body. It is also submitted that it was the side of Shamsheer Singh which was the aggressor party in the present case. It is stated that the petitioner has been in custody since 16.06.2022 and trial is likely to take time to conclude.

Learned State counsel as well as learned counsel for the complainant have opposed the present petition for regular bail and have submitted that injury no.2 on Shamsheer Singh has been attributed to the present petitioner and the said injury has been caused with a *Kirpan*, which is a sharp edged weapon and is grievous injury in nature and thus, attracts the offence under Section 326 IPC. It is further submitted that two other injuries have been caused to said Shamsheer which were also grievous in nature but the same have been attributed to Prem Singh, co-accused and the present petitioner is involved in one more case and thus, prayed that the present petition be dismissed.

Learned counsel for the petitioner, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in "***Maulana Mohd. Amir Rashadi vs. State of U.P. and another***", reported as **2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

*“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”*

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

The FIR in the present case has been got registered by the petitioner against Shamsher Singh, Jaspal Singh and Rachpal Singh on the allegation that they had caused the death of the father of the petitioner namely, Mukhtiar Singh and also inflicted the injuries on the left arm, right side of chest and on the head of the present petitioner. A perusal of the order rejecting bail to the petitioner would show that Mukhtiar Singh, father of the petitioner, had suffered an incised wound on the head which resulted in his death. The cross version was got recorded by Shamsher Singh on 25.07.2021, i.e., after a delay of 7 days from the date of registration of FIR and as per the said cross version also, the petitioner has been attributed only one injury, which is on a non-vital part of the body, i.e. right arm wrist, although, the said injury has attracted the offence under Section 326 IPC. The petitioner has been in custody since 16.06.2022 and the trial in the present case is likely to take time to conclude.

Keeping in view the above said facts and circumstances and in view of law laid down in the ***Maulana's*** case (supra), the present petition is allowed and Keeping in view the abovesaid 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

other case.

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.

(VIKAS BAHL)  
JUDGE

August 16, 2022  
*Davinder Kumar*

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|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |