

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44584-2021 (O&M)
Date of Decision: 21.09.2022

(I)
Sarbjeeet Singh @ Sarba

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CRM-M-49922-2021 (O&M)

(II)
Karamjit Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. S.P.S. Sidhu, Advocate, for the petitioners.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. P.S. Dhaliwal, Advocate for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

Both the petitions are taken up together for final disposal since the same arise out of the same FIR with the consent of learned counsel for the parties.

Both the petitions have been filed under Section 439 Cr.P.C for grant of regular bail to the petitioners in case bearing FIR No. 69 dated 03.06.2021, under Sections 307, 325, 326, 324, 323, 506, 447, 34 IPC,

registered at Police Station City Tapa Mandi, District Barwala.

Learned counsel for the petitioners in both the cases has submitted that the petitioner namely Sarbjeet Singh @ Sarba in CRM-M-44584-2021 is in custody from 09.06.2021, whereas the other petitioner namely Karamjit Singh in CRM-M-49922-2021 is in custody from 05.06.2021 which is more than 1 year and 3 months. He submitted that it is a case where the allegations were that a fight took place between neighbours and allegedly the petitioners have caused injuries on the complainant and his father on the head. He further submitted that the petitioners have been falsely implicated in the present case and even otherwise also the investigation of the case has been completed and thereafter, the charges have been framed on 02.03.2022. He further submitted that no recovery is to be effected from both the petitioners and trial of the case may take long time and, therefore, both the petitioners may be considered for the grant of regular bail. During the course of submissions, the learned counsel for the petitioners also supplied photostat copies of the zimni orders which were passed by the learned trial Judge after the framing of the charges which are taken on record as Mark-X. As per the aforesaid zimni orders, the charges were framed on 02.03.2022 and thereafter, on 23.03.2022 there was no PW present and they were summoned. When the matter was taken up by the learned trial Judge on 20.04.2022, it was ordered that the summons which were sent to PWs namely, Gurwant Singh and Navjot Singh have been received back duly served but they did not turn up in the Court and therefore, they were summoned throughailable warrants in the sum of Rs. 3,000/- with one surety in the like amount for 11.05.2022. On 11.05.2022 the learned Presiding Officer was on bail and the case was put up before

some other Court but still no PW was present as per the orders passed by the Court and they were again summoned. Thereafter, on 01.06.2022 again no PW was present and they were again summoned. When the matter came up for further adjourned date on 03.08.2022 it was ordered by the learned trial Judge that the notices issued to PWs Navjot Singh and Gurwant Singh received back duly served but they have not turned up despite service. Again bailable warrants were issued against them for a sum of Rs. 20,000/- with one surety in the like amount for 13.09.2022 and on that date also no PW was present.

Learned counsel for the petitioners has submitted that the petitioners have faced incarceration for more than 1 year and the trial is delayed only because the complainant and his father who were although allegedly injured did not turn up for stepping into the witness box despite the fact that twice bailable warrants were issued against them and there is no justification coming forward as to why they have not come forward and depose. He further submitted that the petitioners are not involved in any other case and have got clean antecedents and therefore, they may be considered for the grant of regular bail.

On the other hand, Mr. Amit Rana, Sr. DAG, Punjab has submitted that it is correct that both the petitioners are in custody for more than 1 year and 3 months and the charges have been framed in the present case. So far as the summoning of the witnesses is concerned, he submitted that at initial stages the private witnesses i.e the complainant and his father were summoned but official witnesses have not been summoned as yet.

Mr. P.S. Dhaliwal, Advocate appearing on behalf of the

complainant has stated that now when the matter was fixed on 13.09.2022, both the complainant and his father have appeared but they have not been examined.

I have heard the learned counsel for the parties.

Both the petitioners have faced incarceration for more than 1 year and 3 months. Both the petitioners according to the learned counsel for the petitioners are not involved in any other case. After the framing of the charges on 02.03.2022, twice the complainant and his father were summoned through bailable warrants but they did not appear. As per the learned counsel for the State, no further recovery is to be effected from both the petitioners.

Therefore, this Court is of the view that considering the custody of both the petitioners and the fact that the trial of the case may take long time, both the petitioners deserve the concession of regular bail.

Consequently, both the petitions are allowed. Both the petitioners shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petitions only.

21.09.2022

rakesh

Whether speaking
Whether reportable

**(JASGURPREET SINGH PURI)
JUDGE**

: Yes/No
: Yes/No