

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

212

CRM-M-47471-2021
Date of Decision: 17.08.2022

Balkar Singh . . . Petitioner

Versus

State of Punjab . . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

Mr. Yadwinder Singh, Advocate,
for the complainant.

VIKAS BAHL, J. (Oral)

This is the 1st petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.51 dated 07.06.2020 registered under Sections 302, 148 and 149 of Indian Penal Code, 1860 at Police Station Ajitwal, District Moga.

Learned counsel for the petitioner has submitted that in the present case, the petitioner has been in custody since 09.06.2020 (2 years, 2 months and 4 days) and there are 24 witnesses, out of which 12

witnesses have been examined and 12 witnesses remain to be examined, thus, the trial is likely to take time to conclude. It is submitted that the present case is a case of version and cross version and that the incident had taken place in village Dudhike, which is the village of which the petitioner is a resident and the people belonging to the complainant's party are stated to be residents of village Chuharchak Gill Patti. It is further submitted that as per the cross-version which is got registered by Paramjit Kaur, wife of Darshan Singh, she had stated that when she was present on the street in front of their house, along with her son Takdir Singh and daughter Sukhpreet Singh, then five young persons attacked them and had inflicted a blow with a sota (thick wooden stick) on her left shoulder and kick blows were given by the accused persons who belong to the complainant party in the present FIR. It is further submitted that as per the cross-version, the present petitioner was not even present at the spot at the time of the occurrence and that even as per the FIR, it was the complainant party which had gone to the village where co-accused Darshan Singh and the petitioner reside and thereafter, the alleged incident had taken place there and the said facts would show that it is the complainant party in the FIR which was the aggressor. It is contended that the fatal injury inflicted on the deceased Manvir Singh has been attributed to co-accused Takdir Singh @ Dheera, who had been alleged to have given a blow with a baseball bat on the left side of the head of Manvir Singh and a perusal of the

postmortem report would show that the cause of death was the injury suffered by him on his vital organ i.e, brain. It is submitted that the petitioner has been attributed a baseball bat blow inflicted on the chest of the deceased while he had fallen down and the said injury has neither been declared to be a grievous injury, nor was the cause of death of the deceased. It is submitted that in fact, the present petitioner was not even present at the spot at the time of occurrence and said fact is fortified from the cross case as per which the petitioner was not stated to be present at the time of the alleged occurrence. Learned counsel for the petitioner has referred to the report of Dayanand Medical College and Hospital, Ludhiana (Annexure P-3), wherein it has been mentioned that the deceased Manvir Singh was discharged against medical advice and subsequent to having been discharged, Manvir Singh died while he was not admitted in any hospital. It is submitted that the co-accused of the petitioner i.e, Paramjit Kaur has been granted regular bail vide order dated 31.08.2021 passed by a coordinate Bench of this Court (Annexure P-5) and co-accused Darshan Singh has also been granted regular bail by this Court vide order dated 02.08.2022 and a perusal of the said order would show that the motive alleged by the prosecution for the commission of the alleged offences to the effect that the daughter of Darshan Singh had been eve teased by Jumma, a relative of Hardeep Singh, and it was deceased Manvir Singh who had helped the said Jumma was also taken note of and it had been argued by the learned

counsel for the petitioner therein i.e, Darshan Singh that even going as per the prosecution case, the petitioner would have had a motive to attack the persons who had eve teased his daughter and not alone the persons, who as per prosecution case, had helped the said two persons. It is submitted that the material witnesses have already been examined and thus, the question of influencing and threatening them upon being released does not arise.

Learned State counsel as well as learned counsel for the complainant, on the other hand, have opposed the present petition for regular bail and have submitted that in the present case, the son of the complainant namely Manvir Singh died on account of the injury inflicted during the said incident. It is submitted that a specific injury has been attributed to the present petitioner with respect to the deceased, that too on the chest of the deceased. It is submitted that the petitioner is involved in two other cases and thus, does not deserve the concession of regular bail.

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”***, 2012 (2) SCC 382 to contend that it is the facts and circumstances of the present case that are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the applicant-appellant 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 the learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 09.06.2020 (2 years, 2 months and 4 days) and challan has already been presented and there are 24 witnesses, out of which 12 witnesses, including the material witnesses, have been examined and thus, the trial is likely to take time to conclude. The material witnesses have already been examined and thus, the question of influencing and threatening them upon being released, does not arise.

The present case is a case of version and cross-version and as per the cross-version recorded on the statement of Paramjit Kaur, wife of Darshan Singh, she had suffered several injuries at the hands of the complainant party, including a sword blow on the left side of her face, a wooden baseball blow on the foot, a thick wooden stick blow on her left shoulder and kick blows on the hip. The incident had taken place in village Dudhike, of which the petitioner and the other persons

belonging to the petitioner's party are residents, whereas, the complainant is a resident of village Chuharchak Gill Patti. Even a perusal of the FIR would show that it was the complainant party, which had gone to the village Dudhike to meet Darshan Singh, and thereafter, the alleged incident had taken place. The question, as to which party was aggressor, would be finally adjudicated during the course of the trial. A perusal of the medical report (Annexure P-3) of Dayanand Medical College and Hospital, Ludhiana (Punjab) would show that the relatives of the deceased had got the patient discharged from the said hospital against medical advice. It is the case of the petitioner that the said person had not died during the course of getting any treatment in any hospital rather, had only died subsequently, when he was not admitted in any hospital. A perusal of the postmortem report would show that the cause of death of the deceased was the injury suffered by him on a vital part of his body i.e, brain and the said injury on the brain has not been attributed to the present petitioner, but to co-accused Takdir Singh and the present petitioner has only been attributed an injury inflicted on the chest of the deceased, which was not the fatal injury. It is the case of the petitioner that the petitioner was not even present at the spot and has referred to the cross version (taken on record and marked as 'A') to show that as per the said version, the present petitioner was not even stated to be present at the spot of the alleged occurrence. The co-accused of the petitioner Paramjit Kaur has been

granted the concession of regular bail by a coordinate bench of this Court vide order dated 31.08.2021 passed in CRM-M-7561-2021 and co-accused Darshan Singh has also been granted the concession of regular bail vide order dated 02.08.2022 passed in CRM-M-50996-2021. The motive alleged behind the commission of the alleged offence as per the prosecution case was that Jumma, a relative of Hardeep Singh, had eve teased the daughter of Darshan Singh and had been helped by deceased Manvir Singh. In the order dated 02.08.2022, the arguments raised by the learned counsel for the petitioner representing Darshan Singh to the effect that even going as per the said motive, the said Darshan Singh would have attacked the persons who had actually eve teased his daughter i.e. Jumma and his relative Hardeep Singh and not alone the persons, who as per the prosecution case, had helped the said two persons, cannot be outrightly rejected. At any rate, all the said issues/questions would be finally adjudicated during the course of the trial.

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 trial Court/ Duty Magistrate and subject to him not being required in any 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

17.08.2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No