

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Decided on: 29.11.2022

1. CRM-M No.43407 of 2022 (O&M)

Avtar Singh
State of Punjab

Versus

....Petitioner
....Respondent

2. CRM-M No.54062 of 2022 (O&M)

Gursewak Singh @ Manga
State of Punjab

Versus

....Petitioner
....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. K.K. Saini, Advocate
for the petitioner (in CRM-M-43407-2022)

Mr. Ravi Kamal Gupta, Advocate
for the petitioner (in CRM-M-54062-2021)

Mr. Navneet Singh, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Vide this common order, I intend to dispose of the
aforementioned two petitions i.e. CRM-M No.43407 of 2022 and
CRM-M No.54062 of 2022, as the same are arising out of one FIR.

Prayer in the petition (CRM-M No.43407 of 2022) filed by
the petitioner namely Avtar Singh is for grant of anticipatory bail under
in FIR No.376 dated 27.08.2022, registered under Sections 308, 353,
186, 332, 148, 149 of the Indian Penal Code, 1860 (in short 'IPC') at

Police Station City Barnala, District Barnala, whereas prayer in the petition (CRM-M No.54062 of 2022) is for grant of regular bail to the petitioner namely Gursewak Singh @ Manga, under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in the aforementioned FIR No.376 dated 27.08.2022.

Brief facts of the case, as per the FIR, registered at the instance of Senior Constable Harvinder Singh, are that he along with Constable Hardeep Singh was on duty when a wireless message was received that there was a quarrel between two groups and they should reach at the spot. Upon this, the victim along with Constable Hardeep Singh reached the spot where he met ASI Joginder Singh. Some persons including the petitioners – Gursewak Singh @ Manga and Avtar Singh, accompanied by Sandeep Pandit were armed with lathis, sticks, etc. and on the other side, Rajwinder Singh @ Raju, Gurdit Singh @ Manga, Avtar Singh @ Titan (petitioner herein), Gurdev Singh @ Giani, Balwant Singh @ Kaka Paronthia Wala, Harpreet Singh @ Dhakar, Amandeep Singh @ Amna, Rahul, Balwinder Singh @ Babu, Sewak Singh @ Amb and some other unknown persons were armed with baseball bats, iron rod, lathis and sticks, were present at the spot and were abusing each other and were also pelting stones on each other and when the complainant/victim tried to intervene and stop them from quarreling, then, Avtar Singh raised a lalkara to caught hold of the said police man and suddenly, they attacked him. Rajwinder Singh @ Raju gave an iron rod blow on his head, Harpreet Singh @ Dhakar gave a baseball blow on his head and when he raised his hand to save himself,

it hit on the right hand, Gurdit Singh @ Manga gave a danda blow on the neck of the victim and at the same time, Amandeep Singh @ Amna gave a stick blow on his back and Gursewak Singh @ Manga (petitioner herein) gave nook blow of the stick in his abdomen. The co-officials of the victim/complainant tried to rescue the victim but they were also given beatings and in the meantime, some other police party reached at the spot and started blowing horn from the vehicle and thereafter on seeing the police party, the accused persons ran away from the spot.

Counsel for the petitioner – Gursewak Singh @ Manga (in CRM-M No.54062 of 2022) has argued that on an earlier occasion, an FIR No.311 dated 02.10.2016 under Sections 302, 307, 364, 341, 427, 506, 201, 120-B, 148, 149 IPC, was registered at Police Station City Barnala, against 10 persons including Avtar singh @ Titan (petitioner herein in CRM-M-43407-2022). It is further submitted that the petitioner – Gursewak Singh @ Manga, was one of the witness in the said FIR and during the trial, he has supported the prosecution version, while appearing as PW-7 whereas some of the other witnesses did not support the prosecution version, however, on the statement of the petitioner – Gursewak Singh @ Manga, the accused persons including the petitioner Avtar Singh were convicted by the Court of Sessions Judge, Barnala, on 08.01.2020. It is further stated that the Court convicted all the accused persons under Sections 304 Part II read with Section 148, 149 120-B and 341 IPC and also directed that Rs.3.00 lacs as compensation will be paid to the LRs of the victim Ram Singh

Komal and on that account, the other party is keeping a grudge against the petitioner and in this regard, the petitioner has given a complaint to the SHO, Police Station City Barnala on 26.08.2022 that he is apprehending threats at the hands of the accused persons and has even given an information on the police helpline No.100.

Counsel for the petitioner has also submitted that even as per the allegations in the FIR, the persons from the side of Avtar Singh @ Titan were more in number and there are direct allegations that the members of the said party had given injuries on the head of the victim/complainant with a baseball bat and iron rods, etc. It is also contended that during the investigation, the persons, who have been attributed serious injuries have been kept in Column No.2 as the challan stands presented whereas the petitioner – Gursewak Singh @ Manga, is in custody for the last about 03 months.

Counsel for the petitioner (in CRM-M No.43407 of 2022) has argued that the petitioner – Avtar Singh is a Politician and on that account, he has represented the other side, he has been named in the FIR and the only attribution against him is a lalkara.

Counsel for the State has filed the status report (in CRM-M-43407-2022), in which it is stated that apart from the present FIR, the petitioner – Avtar Singh is involved in 05 more FIRs, out of which he is convicted in FIR No.311 of 2016 and he is undertrial in FIR No.391 of 2019 registered under Sections 353, 186, 379-B, 341, 148, 506 IPC, though, he stands acquitted in 03 other FIRs registered under the Indian Penal Code.

As per the status report, the petitioner was found actively involved in the incident and therefore, it is prayed that the anticipatory bail of the petitioner – Avtar Singh be dismissed, as he is a habitual offender.

After hearing the counsel for the parties, I find no merit in the petition (CRM-M-43407-2022) filed by the petitioner – Avtar Singh in view of the allegations levelled in the FIR; status report filed by the Deputy Superintendent of Police, Barnala as well as considering the antecedents of the petitioner – Avtar Singh, who already stands convicted in FIR No.311 of 2016 registered under Sections 302, 307, 341, 364, 323, 148, 149 IPC, wherein the second petitioner i.e. Gursewak Singh @ Manga, was the complainant and has supported the prosecution version while appearing as PW-7 and accordingly, the same is dismissed.

So far as the regular bail application of the petitioner – Gursewak Singh @ Manga is concerned, the only allegation against him is that he has given a stick blow, which is reflected as Injury No.4 in the MLR as complain of pain in abdomen and further there was no fracture found on the body of the victim/complainant i.e. Senior Constable Harvinder Singh and considering the fact that the investigation is complete; challan has already been presented; the custodial interrogation of the petitioner – Gursewak Singh @ Manga, is not required and it will take some time in conclusion of the trial, the present petition is allowed and the petitioner namely Gursewak Singh @ Manga, is directed to be released on bail subject to his furnishing

bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

A photocopy of this order be placed on the file of other connected cases.

(ARVIND SINGH SANGWAN)
JUDGE

29.11.2022

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