

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

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**CRM-M-45705-2022
Decided on : 12.10.2022**

Jaswinder Singh @ Jassu and another

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Raj Kapoor Malik, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Priyavrat Parashar, Advocate for complainant.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioners – Jaswinder Singh @ Jassu and Salinder @ Surender, who have been booked for committing the offences punishable under Sections 148, 149, 323, 341, 506 of IPC 1860 (Sections 325, 302 of IPC added later on), in FIR No. 224, dated 20.11.2021, registered at Police Station Titram, District Kaithal; during the pendency of trial.

Learned counsel for the petitioners submits that though both the petitioners have been named in the FIR but as per contents of the same, no injury had been attributed to petitioners having been caused to the deceased- Rattan Singh. Counsel further submits that petitioner No. 2/Salinder @ Surender, who has been projected in FIR as Subhash is attributed with the gandas blow on the head of the complainant, namely, Manish, and the same marked as injury No. 1 as per MLR, which says as under.

*“1. Lacerated wound around 4 X1 CM present over
anterior aspect of head.*

ADV. NCCT Head and Surgeon opinion.”

Learned counsel for the petitioners submits that said injury had been later on appended as simple one. He further submits that apart from the said role, none of the petitioners has been assigned any specific role by the complainant in the FIR.

Further submits that both the sides have common ancestors, and the dispute in the present case has arisen on account of a plot. He further submits that there are six persons, who are injured from the side of family of the petitioner also, and thus, it is a case of version and cross-version. Since suffering of injuries by the petitioners' party, has not been elaborated in the FIR, genesis of the incident has also been concealed. He further submits that there are fairly arguable points during the course of the trial showing the innocence of the petitioners. It is also submitted that there is cross-version in the shape of FIR No. 225, dated 20.11.2021, lodged under Sections 148, 149, 323, 325, 506 of IPC, registered at Police Station Titram, District Kaithal, against the injured/complainant party of this case. Therefore, counsel submits that further incarceration of the petitioners is not worth in this case as conclusion of trial would not be possible in near future.

Per contra, learned State counsel assisted by Mr. Priyavrat Parashar, learned counsel for the complainant, while opposing the arguments raised by learned counsel for the petitioner, submits that looking at the totality of the facts and circumstances and gravity of offences, concession of bail to the petitioner should not be extended, as it is a case of gruesome murder and facts mentioned in the FIR cannot be considered as a complete encyclopedia. He further submits that since names of both the petitioners are mentioned in the FIR itself, they would be equally liable for the murder of Rattan Singh.

Regarding the state of trial, learned State counsel submits that out of 21 prosecution witnesses cited, till date 04 have already been examined and next date fixed before the trial Court is 17.10.2022.

However, he could not deny the fact that there is cross-version in the shape of FIR No. 225, dated 20.11.2021, lodged under Sections 148, 149, 323, 325, 506 of IPC, registered at Police Station Titram, District Kaithal, against the injured/complainant party of this case. There is also no denial to the fact that petitioners are inside jail since November, 2021 and except the present case, petitioners are not involved in any other criminal activity.

After considering the submissions of both the sides, and perusing the record with their able assistance, I find that there is substance in the contentions raised by the counsel for the petitioners. Otherwise also, without therebeing any specific attribution to the petitioners of causing injuries to the deceased, petitioners are inside jail since the month of November, 2021. Therefore, no purpose would be served by keeping the petitioners inside jail for an indefinite period, especially, when only 04 out of 21 prosecution witnesses, have been examined so far.

Accordingly, present petition is allowed. Petitioners are ordered to be released on bail in this case, subject to their furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioners shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made here-in-above shall not be construed as an expression on the merits of the case and Trial Court shall decide the case on the basis of evidence available on record.

(SANJAY VASHISTH)
JUDGE

September 12, 2022

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No