

In The High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-12466-2023 (O&M)
Date of Decision:- 20.03.2023

Bant Singh @ Kala ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bipan Ghai, Senior Advocate, with
Mr. Nikhil Ghai, Mr. Paras Talwar and
Mr. Prabhdeep S. Bhindra, Advocates, for the petitioner.

Mr. Siddharth Attri, AAG, Punjab,
assisted by ASI Pardeep Kumar.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.71 dated 12.4.2020 under Sections 307, 323, 324, 326, 353,186, 332, 335, 148, 149, 188, 427, 506 IPC and Section 51 of the Disaster Management Act, 2005 and Section 3 of the Prevention of Damage to Public Property Act, 1984 at Police Station Sadar, District Patiala.
2. The FIR in question was lodged at the instance of Inspector Bikar Singh wherein it is alleged that on 12.4.2020 when he alongwith other police officials was present at the main gate of vegetable market then

at about 5:30 a.m., a white coloured vehicle i.e. ISUZU D-MAX was signalled to stop by the employee of the Mandi Board Yadwinder Singh, who demanded a pass to be shown with regard to purchasing of vegetables from its driver as there were restrictions in movement on account of spread of pandemic COVID-19. However, the Sikh driver who was *Nihang* forcibly took his vehicle inside the vegetable market without showing any pass and later made a u-turn and hit against the main gate of the vegetable market and also hit against the barricades in an attempt to kill the employees standing there. However, the employees managed to save their lives by jumping to the side. However, when the vehicle stopped having stuck into the barricades, Balwinder Singh and his son Jagmeet Singh, residents of Village Amargarh, District Sangrur, currently residing at Dera Khichri Sahib, Bant Singh and Nirbhae Singh, who were also stated to be residents of Dera Khichri Sahib accompanied by 2-3 unknown Nihang Sikhs alighted from the vehicle carrying swords and sticks and attacked the police party and employee of the Mandi Board. The driver of the vehicle namely Balwinder Singh gave a blow to ASI Harjit Singh with his sword aiming at his head but ASI Harjit Singh in order to protect himself raised his left hand and resultantly his left wrist was absolutely chopped off and fell on ground. Balwinder Singh is alleged to have attacked ASI Harjit Singh several times.

3. It is further alleged that Nihang Bant Singh attacked Yadwinder Singh, employee of the Mandi Board with a sword. Nihang Nirbhae Singh attacked ASI Ragubir Singh with stick. The fourth Nihang Jagmeet Singh attacked the driver ASI Raj Singh with a sword hitting

him on his right knee. Thereafter, all the Nihangs are also alleged to have attacked Inspector Bikar Singh. Nihang Balwinder Singh is also alleged to have given a blow with sword hitting Inspector Bikar Singh on his back. Nihang Jagmeet Singh is stated to have inflicted a blow with sword on the left elbow of Inspector Bikar Singh-complainant. Thereafter, all of them caused injuries with sticks and swords while he fell down and also caused more injuries to Harjit Singh and Yadwinder Singh. After causing injuries said Balwinder Singh, Jagmeet Singh and other Nihangs ran away from the spot alongwith their swords and sticks after reversing their vehicle and while issuing threats.

4. Learned counsel for the petitioner submits that although the petitioner is specifically named in the FIR and is alleged to have attacked one Yadwinder Singh with a 'sword', but the said allegations are not substantiated by the medical evidence inasmuch as out of the 7 injuries as recorded in the MLR, four are in the nature of complaints of pain while two are contusions and one is in the nature of incised wound on the right hand thumb.
5. Opposing the petition, learned State counsel submits that in the present case apart from the fact that the petitioner had inflicted injuries to Yadwinder Singh, co-accused Balwinder Singh who was also carrying a 'sword' had chopped off the wrist of the police official. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 2 years, 10 months and 21 days. It has further been submitted that as on date

only 2 out of the cited 54 PWs have been examined. It has further been pointed out that the petitioner happens to be involved in one more case i.e. FIR No.45, dated 12.4.2020, Police Station Pasiana, under Sections 188, 307, 353, 186, 269, 270, 294, 148, 149, 511 IPC, Section 51 (A-B)-54 Disaster Management Act, 2005, Section 25 of Arms Act, Sections 3-4 of Explosive Act and Sections, 13, 16, 18, 20 of Unlawful Activity Act, 1967.

6. This Court has considered the rival submissions.
7. The allegations against the petitioner are that he had inflicted a blow with 'sword' to Yadwinder Singh. The MLR in respect of Yadwinder Singh (Annexure P-6) records the following injuries:

- “1. Complain of pain in abdomen and chest. Advised X-Ray and surgery opinion
2. Red Contusion on the left thigh front lower part 5x2cm advised X-Ray.
3. Complain of pain in right thigh. Advised X-Ray Ortho opinion
4. Red Contusion 5x2cm on the right leg front middle and red contusion on the right leg upper part 4x1 cm. Advised X-Ray
5. Complain Of pain in left leg and red contusion on left leg middle 4x2cm. Advised X-Ray.
6. Incised Wound 3x0.5cm horizontal on the right hand thumb interphlaygeal joint with fresh bleeding and pain in hand. Advised X-Ray and Ortho opinion
7. Complain of pain in lower back. Advised X-Ray.”

8. Having regard to the fact that only incised wound found on the person of Yadwinder is on a non-vital part i.e. on thumb of the right hand and while also noticing that the petitioner has been behind bars for a

substantial period of 2 years, 10 months and 21 days and trial is virtually proceeding at snail’s pace inasmuch as only 2 out of cited 54 PWs have been examined, further detention of the petitioner is not justified. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. It is clarified that the aforesaid order shall enure offences under Sections 324 and 186 IPC as well.

20.03.2023
mohan

(GURVINDER SINGH GILL)
JUDGE

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