

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-M-17874-2022

Date of Decision : March 14, 2023

Ram Saroop Singh		Petitioner
	vs.	
State of Punjab		Respondent

Case No. : CRM-M-46372-2022

Date of Decision : March 14, 2023

Gurdev Singh		Petitioner
	vs.	
State of Punjab		Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Lakshay Bector, Advocate
for the petitioner (in CRM-M-17874-2022).

Mr. SPS Khaira, Advocate
for the petitioner (in CRM-M-46372-2022).

Ms. Himani Arora, AAG, Punjab (in both cases).

Mr. G. S. Virk, Advocate
for the complainant (in CRM-M-17874-2022).

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GURBIR SINGH, J. :

Vide this common order, two petitions i.e. **CRM-M-17874-2022** and **CRM-M-46372-2022**, shall be disposed of as both these petitions arise out of the same FIR bearing No.40 dated 11.02.2022, under Sections 323, 324, 341, 326, 120-B, 148, 149 IPC (Section 307 IPC added later on), registered at Police Station Sahnewal, District Ludhiana.

The aforesaid FIR was registered on the basis of statement

made by complainant Harmanjit Singh that he was posted as Hawaldar at Kasbhuj, Gujarat, where he was working with a Company namely Bombay Engineers Group and Center Pune, Head Quarters at Mumbai. On 10.01.2022, he had come on leave for 48 days. His marriage was solemnized with Amandeep Kaur in the year 2010 and from this wedlock, two sons were born. Due to differences and disputes, the complainant and his wife entered into a Panchayati Compromise on several occasions. Thereafter, he came to know that his wife was having relations with someone. He tried to make her understand but she did not mend her ways. She used to leave the house after picking up quarrel with the complainant. The complainant told the entire story to his brother-in-law Harpreet Singh but instead of making his sister understand, he and his co-villagers took his wife with them leaving the children behind, in his care and custody.

It is further mentioned in the FIR that on 08.02.2022, the complainant along with his children, went to the house of his sister Manjit Kaur wife of Harpreet Singh. He along with his children, his nephew Gagandeep Singh and his brother-in-law (*Jija*) Harpreet Singh went to Sahnewal Park in the car. The complainant uploaded the status of his children on his mobile phone and after that, he received a call from his wife, who started threatening him. At about 05:30 PM, the complainant came out of the park to buy "Lays" for his children. He found a car parked there. Ram Saroop, his two nephews and two unknown persons alighted from the car and encircled the complainant. Ram Saroop, who is his co-brother (*Saandu*), raised lalkara that he (the complainant) should be killed and

should not escape. Ram Saroop gave a blow with sword in order to kill him. He raised his right hand in order to save himself, due to which, the blow hit on the finger of his right hand. Consequently, index finger got chopped off and fell down. His remaining fingers also got injured. Then, Ram Saroop and his nephew gave kirpan blow on the head of the complainant with intention to kill him but he tried to ward off the blow by taking his head behind. The blow fell on the left cheek, ear and neck. Consequently, a piece of his cheek was chopped off and fell down on the ground. Ram Saroop gave another blow with sword on the complainant, who raised his left arm and blow hit his left hand. The nephew of Ram Saroop gave blow with sword on the head of the complainant and he fell down on the ground and raised alarm. On hearing alarm, nephew of the complainant Gagandeep Singh arrived at the spot and tried to save the complainant but they gave injuries on both his arms and head with their respective weapons. After that, Harpreet Singh (*Jija* of the complainant) came forward to rescue the complainant and Gagandeep Singh but they also gave beatings to Harpreet Singh. When the complainant was lying on the ground, nephew of Ram Saroop and two unknown persons also gave injuries with hockeys and sticks on the back and legs of the complainant. In order to save himself, the complainant escaped from the spot.

CRM-M-17874-2022 and CRM-19122-2022 :

This petition (**CRM-M-17874-2022**) has been filed by Ram Saroop under Section 438 Cr.P.C. for grant of anticipatory bail in the aforesaid FIR.

Application under Section 439(2) Cr.P.C. read with Section 482 Cr.P.C. (**CRM-19122-2022**) has also been filed on behalf of the complainant for vacation/cancellation of interim bail granted to the petitioner Ram Saroop, vide order dated 29.04.2022, passed by a Co-ordinate Bench of this Court, on the ground that the petitioner has concealed the material facts from the Court and misled the Hon'ble Court.

The main petition filed by the petitioner – Ram Saroop Singh as well as the application for cancellation of interim bail granted to the petitioner are being dealt with simultaneously.

Learned counsel for the petitioner has submitted that the complainant Harmanjit Singh himself called the petitioner to the park to effect compromise with them. The petitioner along with Gurdev Singh @ Ginni, when reached there, saw the complainant along with 7-8 unknown persons present there. When they entered the park, the complainant started abusing the petitioner and also gave beatings to him. When Gurdev Singh @ Ginni tried to save his uncle (petitioner Ram Saroop), he was given beatings including kirpan blow on his head and above eye. Thereafter, to save himself and his uncle, Gurdev Singh @ Ginni, in self-defence, snatched the kirpan and hit the complainant on his arms, fingers and head. A copy of MLR of Gurdev Singh @ Ginni is attached with the petition as Annexure P-2. The complaint regarding the occurrence was made to the Police Station Sahnewal, but no action has been taken. It has been further stated by learned counsel for the petitioner that he did not inflict any injury to the complainant. The injuries were given by Gurdev Singh @ Ginni but

only in self-defence. The complainant has also threatened the petitioner and his family members through WhatsApp (Screenshots annexed as Annexure P-3). It is further stated that even if the allegations are taken on its face value, Section 307 IPC is not made out.

Learned State counsel, accompanied by learned counsel for the complainant, has opposed the petition.

It is submitted that the complainant was playing with his two children in the park. The petitioner and four other persons attacked the complainant with deadly weapons and caused him injuries. The right hand's finger of the complainant was amputated which fell off and he also suffered injuries on the remaining fingers. There is one degloving injury on the left side of the face with laceration injury of neck and left earlobe. The photographs showing the cut finger and a chopped off part of cheek, both lying on the ground, have been annexed with the petitioner as Annexure A-3. The petitioner misled the Court by stating that the complainant party was the aggressor party and got the interim bail.

Learned State counsel has submitted that although the petitioner has joined investigation but he did not get the sword used in the crime recovered. Injuries attributed to the petitioner are very grievous in nature and were given in order to kill the complainant. Therefore, he does not deserve the concession of anticipatory bail.

Learned counsel for the petitioner has further submitted that the petitioner has already joined investigation and has fully co-operated the Investigating Agency. He has given the satisfactory reply about the sword

and Section 201 IPC has been added. In support of his contentions, he has relied upon two Judgments of Hon'ble Supreme Court in **Hazari Lal Das vs. State of West Bengal and another – 2009(4) RCR (Criminal) 340** and **Doalt Ram vs. State of Haryana – Criminal Appeal No.830 of 1994**, decided on 24.11.1994 and submitted that the petitioner did not misuse the concession of anticipatory bail. He has further argued that in view of the aforesaid authorities of Hon'ble Apex Court, the interim bail granted to the petitioner Ram Saroop cannot be cancelled and deserves to be confirmed

Heard.

Petitioner Ram Saroop joined investigation but did not get the sword used in the crime recovered. When a person is equipped with a favourable order of anticipatory bail, then interrogation becomes a mere ritual. This view of mine finds support from a judgment of Hon'ble Supreme Court in the case of **State represented by the CBI vs. Anil Sharma** reported as **AIR 1997 SC 3806**, decided on 03.09.1997.

Since recovery of weapon is to be effected, the custodial interrogation of the petitioner is required. Injuries attributed to the petitioner are very serious. Therefore, the petitioner is not entitled for anticipatory bail. The authorities cited by learned counsel for the petitioner are regarding cancellation of regular bail but in this case, the petitioner was granted only interim bail. So, the authorities cited by learned counsel for the petitioner are distinguishable on facts and circumstances of the present case.

In view of what has been discussed in the preceding

paragraphs, the application bearing CRM-19122-2022 is allowed and the petition i.e. CRM-M-17874-2022 filed by petitioner – Ram Saroop Singh stands dismissed in the above terms.

CRM-M-46372-2022 :

This petition has been filed by petitioner Gurdev Singh under Section 439 Cr.P.C. for grant of regular bail in the aforesaid case.

Learned counsel for the petitioner has submitted that the petitioner is in custody for the last more than seven months. Co-accused Amandeep Kaur has also been granted benefit of regular bail by a Co-ordinate Bench of this Court vide order dated 28.07.2022 passed in CRM-M-21034-2022. The petitioner has also suffered two injuries – one on the right eye-brow with sharp edged weapon. A copy of MLR of the petitioner has been annexed with this petition as **Annexure P-2**.

Learned counsel for the petitioner has further placed reliance on a judgment of Hon'ble Supreme Court in Sanjay Chandra vs. CBI – (2012) 1 SCC 40, in support of his contentions.

Learned State counsel has fairly conceded that the petitioner is in custody since 04.07.2022. The challan has also been presented against the petitioner.

Learned State counsel and learned counsel for the complainant have opposed the petition submitting that the injuries given to the complainant were very serious in nature and were given in order to kill him. Therefore, the petitioner does not deserve any leniency from the Court.

Heard.

Keeping in view the facts that the petitioner is in custody since 04.07.2022; the challan has also been presented against the petitioner, completion of trial may take a long time and culpability of the petitioner would be determined during the trial of the case, no useful purpose would be served by keeping the petitioner behind bars for a long period.

Accordingly, without commenting upon the merits of the case, the present petition i.e. CRM-M-46372-2022 is allowed and the petitioner – Gurdev Singh is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, Ludhiana.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

A photocopy of this judgment be placed on the file of other connected matter.

March 14, 2023

monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes.
Whether reportable ?	Yes.