

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-17263-2023

Date of Decision:-20.11.2023

Sarwan @ Sarman & Anr.

.....Petitioners.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Puneet Kumar Bansal, Advocate for the Petitioners.

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.94 dated 15.07.2020 under Sections 302, 323, 148, 149, IPC (Section 325 IPC added later on) registered at Police Station Makhu, District Ferozepur.

2. The present FIR came to be registered on the statement of Raju which reads as under:-

“ District Ferozepur P.S. Makhu Year 2020

FIR No.0094 Date and Time 15.7.2020

Under Sections: 302, 323,148, 149 |PC

FIR Contents:

Statement of Raju son of Murad resident of Talwandi Nipala Basti Raj Singh notice station Makhu age about 50 years M. No. 97816-74303. Stated that I am resident of above said address and do the work of labour. I have 3 daughters and 2 sons. My son namely Jagsir Singh @ Jagga son of Raju resident of Basti Raj Singh

Talwandi Nipala is married. Raj-daughter of my brother-in-law (Saadu) namely Bashir son of Shakha resident of Talwandi Nipala was taken away by Lovepreet son of Sarwan resident of Talwandi Nipala about one and 1 ½ months ago. Due to which we, as Panchayat, have asked to Sarwan to return the girl as we are neighbours and it does not look good in the village who used to dilly-dally. Today we all were talking in the son of Jaraj house of my brother-in-law Bashir Singh that Sarwan Singh Singh passed from the front of the house and on seeing us sitting together, Sarwan Singh started abusing. Then I told my brother-in-law Bashir Singh that we will not fight with them and will talk in the morning in the Panchayat. Then Sarwan Singh went to his house. Then we along with family of Bashir and my son Jagsir Singh went to the house of younger brother in law (Saadu) Ninder Singh son of Mukhtiar Singh and we all were talking. Then time would be around 9 in the night at the street lights were on. Then Sarwan son of Jaraj armed with wooden stick along with Neela son of Jaraj armed with wood, Sukha son of Jaraj armed with Sword, Chaina son of Jaraj armed with stick Yunna son of Sarwan armed with the Daatar, Ghukkar wife of Tarsem, Khanna Akash sons of Tarsem resident of Basti Raj Singh Talwandi Nipala and to the unknown persons alongwith Jagga son of unknown came in the street while raising lalkara. Then Sarwan Singh told in law requires that we be taught lesson for taking fight on account of girl. Then we came in the Street and while I was watching, Sukha gave blow of his sword to my son Jagsir Singh which hit on the right lateral side of Chest (Vakhi) and he fell down and blood started coming out. Then Neela gave blow on the head of my brother-in-law Bashir, then Khanna gave brick blow on my brother-in-law which hit on the right thigh. My sister-in-law Manjit Kaur wife of Bashir came to rescue him then Ghukkar wife of Tarsem @ Gangu gave brick blow on her head. Then Channa gave daang below on the arms of Manjit Kaur. Then Akash gave brick blow on the right thigh of Manjit Kaur. Then Yunna gave blow of back side of Daatar on the son of my brother-in-law Ninder son of Rajan which hit on the right arm. Then we raised raula of killed killed then all these persons fled away from the spot alongwith their weapons. Then I along with son of my brother-in-law Mangat Singh son of Bashir arranged the vehicle alongwith Janga son of Bashir got admitted in civil hospital Makhu

where the doctors declared my son Jagseer Singh as dead. The cause of dispute is that there son Lovepreet Singh had taken away our girl and we used to ask them to return our girl due to which these persons after entering into conspiracy had caused injuries to us. Legal action be taken against them. Got recorded my statement, heard and is correct. True LTI Raju above said.”

3. The learned counsel for the petitioners contends that all the material witnesses namely, PW-1 Raju (complainant), PW-2 Manjit Kaur, PW-3 Janga Singh, PW-4 Rajan, PW-5 Bashir and PW-6 Mangat Singh have deposed in the Court but have not supported the prosecution case and have turned hostile. As the petitioners were first time offenders, in custody since 24.07.2020 and all the 07 material prosecution witnesses out of 33 prosecution witnesses had been examined, they were entitled to the concession of bail.

4. The Counsel for the State on the other hand contends that though the material witnesses have turned hostile, in view of the serious nature of the allegations levelled against the petitioners, they were not entitled to the concession of bail. She however, concedes that the petitioners were first time offenders, in custody since 24.07.2020 and only 07 out of 33 prosecution witnesses have been examined so far.

5. I have heard the learned counsel for the parties.

6. Admittedly, the 07 material witnesses out of the 33 cited prosecution witnesses have turned hostile. Whether the remaining evidence is sufficient to affix culpability on the petitioners shall be adjudicated upon during the course of the trial. The petitioners are first time offenders, in custody since 24.07.2020 and as many as 26 witnesses remain to be examined. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the

petitioners is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioners-**Sarwan @ Sarman** son of Sh. Jaraj and **Yunna @ Vishal** son of Sh. Sarwan Singh are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

November 20, 2023

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>