

CRM-M-19621-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-19621-2023 (O & M)****Date of decision: 27.04.2023**

Balwinder Singh alias Babu

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDIPresent: Mr. Munish Garg, Advocate,
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.376 dated 27.08.2022 under Sections 308, 353, 186, 332, 148, 149 IPC registered at Police Station City Barnala, District Barnala, Punjab.

2. The present FIR came to be registered at the instance of the Senior Constable Harwinder Singh who stated that he received a wireless message that a dispute had taken place between two groups at Patti Road Barnala. Based on the said information, he reached the spot and found Gursewak Singh @ Manga, Sandeepi Pandit alongwith Allaichi armed with *dangs* and *soties* on the one hand and Rajwinder Singh @ Raju, Gurdit Singh @ Manga, Avtar Singh @ Titan and Gurdev Singh @ Giani (since granted bail vide order dated 14.03.2023 passed in CRM-M-49552-2022) sons of Kuldeep Singh, Balwant Singh @ Kaka Paronthia Wala, Harpreet Singh @ Dhakar, Amandeep Singh @ Amna, Rahul son of Lal Singh, Balwinder Singh @ Babu (petitioner), Sewak Singh @ Amb son of Kaka

Singh on the other hand, who were all armed with baseballs, *soties* and iron

rods. Both the sides were hurling abuses at each other and pelting stones. At that time, Avtar Singh @ Titan raised a *lalkara* and attacked him (complainant). Rajwinder Singh @ Raju struck an iron rod blow on his head and the second blow was given by Harpreet Singh @ Dhakar which struck his right hand. Thereafter, Gurdit Singh @ Manga gave a *dang* blow on his neck on the backside. Amandeep Singh @ Amna gave a *soti* blow on his back and Gursewak Singh @ Manga gave blows in his stomach with a *soti*. His fellow police officials tried to get him released from the accused but the accused kept on giving him beatings. Thereafter, the accused ran away from the spot.

3. The learned counsel for the petitioner contends that no specific injury has been attributed to the petitioner. The occurrence is of 26.08.2022 whereas the FIR was got registered on 27.08.2022. The delay in registration of the FIR is fatal to the prosecution case. No recovery has also been effected from the petitioner. Since the petitioner was in custody since 27.08.2022 and none of the 14 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso when his co-accused, namely, Gurdev Singh has been granted the similar concession.

4. The learned counsel for the State, on the other hand, contends that the petitioner alongwith his other co-accused attacked the police party. The nature of the allegations levelled against the petitioner did not entitle him to the grant of bail. He, however, admits the period of custody, the stage of Trial as also the fact that the co-accused/Gurdev Singh has been granted the concession of bail vide order dated 14.03.2023.

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

6. The veracity of the prosecution case against the petitioner and

his co-accused would be adjudicated upon during the course of the Trial. The

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petitioner is stated to be in custody since 27.08.2022 and none of the 14 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. A similarly situated co-accused of the petitioner, namely, Gurdev Singh has been granted the concession of bail vide order dated 14.03.2023 (Annexure P-3). Therefore, the further incarceration of the petitioner is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Balwinder Singh @ Babu is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the case(s) referred to hereinabove.

9 In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

April 27, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No