

215

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

CRM-M-22252-2023 (O&M)

Date of Decision: 05.07.2023

HARSHVIR SINGH @ GAGAN

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amrit Paul Nahar, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

...

Manoj Bajaj, J. (Oral)

CRM-20060-2023

Application is allowed, as prayed for.

CRM-M-22252-2023

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.03 dated 14.01.2019 registered under Sections 302, 323, 325 and 34 IPC, 1980 at Police Station Sadar, Nakodar, Police District Jalandhar (Rural), District Jalandhar, Punjab. The petitioner is in custody since his arrest on 14.01.2019.

The FIR was registered on the basis of statement made by Sukhjinder Singh and the allegations as noticed by the Addl. Sessions Judge-cum-vacation Judge, Jalandhar in the order dated 13.06.2019 are as under:

“Tersely put, the present case has been got registered on the statement of Sukhjinder Singh son of Satnam Singh, wherein, he has stated that on 13.01.2019 on account of Lohri festival people from his locality had arranged bonfire at Samadawala Chowk. Many residents of the Mohalla were sitting around the fire. He alongwith his brother Kamaljit Singh and friend Balwinder @ Bunty were also sitting there. Arjan Sing, his brother Harshvir Singh also came there. Arjan

Singh taunted him due to which he felt ashamed. He also replied them in anger whereupon both of them took him aside and started beating him. His brother Kamaljit Singh and his friend Balwinder @ Bunty got saved him from them. Arjan Singh also called his father there on telephone, who also started abusing them. The people sitting near the fire made them understand. Then, Arjan Singh and Harshvir Singh alongwith their father went back to their house. After sometime, he alongwith his brother Kamaljit Singh was going to leave their friend Bunty and when they reached near Jasvir Singh's house around 9 PM, then, Jasvir Singh alongwith his both sons Arjan Singh and Harshvir Singh armed with kirpan and hockeys were standing there whereupon Jasvir Singh raised lalkara upon which Arjan Singh and Harshvir Singh gave blows to him and his friend Balwinder with kirpan and hockey and their father Jasvir Singh gave hockey blows on the head of his brother Kamaljit Singh. They raised hue and cry upon which Gurmail Singh came on the spot and saved them. His brother Kamaljit Singh sustained major injuries on his head and fell down on the ground. Gurmail Singh called his father on the spot and after arranging the vehicle admitted them in the hospital where doctor declared his brother Kamaljit Singh dead and referred him and his friend Balwinder to Civil Hospital, Jalandhar, where they are under treatment. On the basis of this statement, present FIR was registered."

Learned counsel for the petitioner has argued that as per the allegations in the FIR itself, the fatal injuries suffered by deceased Kamaljit Singh on the head have been attributed to Jasvir Singh and though the petitioner's name is also mentioned in the FIR, but no fatal injury is attributed to him. He submits that the petitioner is in custody for last more than four years and out of total twenty one prosecution witnesses, only nine witnesses have been examined including the complainant Sukhjinder Singh. He submits that another eye witness, namely Balwinder @ Bunty has also been examined, therefore, the further custody of the petitioner may not be necessary. He prays for bail.

The prayer is opposed by learned State counsel assisted by ASI Sukhwinder Kumar, who has argued that the petitioner was also armed with the sword and participated in the crime and his previous bail application

was dismissed on merits vide order dated 16.01.2021. However, it is not disputed that still twelve prosecution witnesses remain to be examined.

After hearing the learned counsel for the parties, considering the long custody of the petitioner and the pace at which the trial is progressing, it seems that the conclusion of the trial would take considerable time to conclude, therefore, the further detention of the petitioner behind the bars may not be necessary. Apart from it, the material witnesses are either police officials or close relatives of the witnesses and at present, there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

05.07.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No