

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

204

CRM-M-28528-2023

Date of Decision: 06.06.2023

Gurdish Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Man Singh Chauhan, Advocate with
Mr. Arshit Goel, Advocate for the petitioner

Mr. Gurpreet Singh, Addl. A.G., Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.0049 dated 18.10.2022 under Sections 323, 341, 506 & 34 of Indian Penal Code, 1860 (for short 'IPC') (Section 308 of IPC added later on) registered at Police Station Rawalpindi, District Kapurthala.

2. Learned counsel for the petitioner *inter alia* contends that petitioner along with his other family members has been nominated in the FIR. The FIR has been lodged by sister-in-law (brother's wife). The matter has been amicably settled and a compromise has been arrived at between the parties. The petitioner is in custody since 16.03.2023 and he is not involved in any other offence. This Court vide order dated 27.03.2023 passed in CRM-M-58741-2022 has granted concession of

regular bail to co-accused i.e. wife of the petitioner, thus, petitioner deserves concession of regular bail on the ground of parity.

3. Custody Certificate dated 05.06.2023 filed by respondent-State is taken on record. As per custody certificate, the petitioner is in custody since 18.03.2023 and he is not involved in any other crime.

4. Learned State counsel does not dispute the afore-stated factual position and confirms the fact that this Court has granted concession of regular bail to co-accused i.e. wife of the petitioner.

5. The relevant paragraphs of order dated 27.03.2023 read as under:-

“Brief facts of the case are that the present FIR was registered on the statement of one Parveen Kaur wife of Raj Singh, who stated that her husband Raj Singh, has three brothers and three sisters and they are all married and two brothers of her husband-Raj Singh are elder to him. It was stated that her husband-Raj Singh and his one elder brother namely, Mewa Singh were working as street seller of vegetables and pulses in the villages and are farmers and also keeping cattle in their fields. It is stated that her father-in-law Bikar Singh had transferred half of the ancestral property in the name of his elder son Gurdish Singh and he had given small pieces of land to her husband and his two other brothers. It is alleged that said Gurdish Singh intended to take forcible possession of the said land also and on this account, panchayat was held many times and the matter was settled between the parties. It is stated that on 13.10.2022, the husband of the complainant and her elder brother-in-law

Mewa Singh, had gone to Himachal Pradesh for selling vegetables and in the evening, she and her sister-in-law Paramjit Kaur had gone to the fields for milking and tethering the buffaloes, where they found her elder brother-in-law Gurdish Singh, his wife Surinder Kaur and their son Akashdeep Singh along with Bikkar Singh(father-in-law of the complainant). It is stated that Paramjit Kaur said to Bikkar Singh that you have snatched our entire land and given to Gurdish Singh as if we are not related to you, whereupon, Bikkar Singh is stated to have started talking loudly while Gurdish Singh, Surinder Kaur and Akashdeep Singh rushed towards them, hurling abuses and extending threats to kill, whereupon, Paramjit Kaur in order to save herself started running from there but Gurdish Singh obstructed her and caught hold of her from her neck; Surinder Kaur caught hold Paramjit Kaur from her hair and made her fall on the ground and Gurdish Singh started giving fist blows on the upper part of the body on her person. It is alleged that Surinder Kaur gave her slap and Akashdeep Singh gave brick blow on the head of Paramjit Kaur. It is further alleged that Gurdish Singh gave brick blow near the left eye of Paramjit Kaur and Surinder Kaur had twisted her right hand. It is also alleged that thereafter, they all gave injuries to the complainant and Paramjit Kaur, due to which, Paramjit Kaur fell unconscious and upon raising of alarm, the assailants fled away from the spot.

Learned counsel for the petitioner submits that the complainant party and the accused party are related to each other and there was a property dispute. It is stated that it is a case of version and cross version as one DDR No.25 dated 19.10.2022 was also registered against the complainant party. Learned counsel for the petitioner further submits that

as per the FIR, although the alleged occurrence is of 13.10.2022; whereas, the FIR was registered on 18.10.2022; thus, there was delay of 06 days in lodging of the FIR. Learned counsel further submits that the petitioner is a lady, who was arrested on 06.11.2022 and even otherwise, the injury relatable to offence under Section 308 IPC is not attributed to the petitioner. It is also submitted that presently, the matter has been compromised vide Annexures P-3 and P-5 and there is no other case against the petitioner. Learned counsel further submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by trial Court; accordingly, prayer for grant of regular bail is made.

Per contra, learned State counsel has opposed the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of the offence and submitted that the other co-accused are still at large. However, he does not dispute that the complainant party and the accused party are related to each other; the petitioner is in custody since 06.11.2022 and there is no other case against her.

I have heard learned counsel for the parties and perused the paper book as well as short reply filed by learned State counsel.

Petitioner, herein, is a lady of around 39 years of age, who has been in custody since 06.11.2022. It is not disputed that the parties are related to each other and the matter is stated to have been compromised vide Annexures P-3 and P-5 and there is no other case against the petitioner. Concededly, the allegations against the petitioner are that she had caught hold of Paramjit Kaur from her hair and

made her fall on the ground and she had slapped her and twisted her right hand.

Keeping in view the afore-stated facts and circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the Illaqa Magistrate / Duty Magistrate / trial Court concerned.

However, before release, the concerned Station House Officer be informed and the petitioner shall inform the concerned Station House Officer about her address at which she intends to reside during the pendency of the case and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would furnish her telephone number to the concerned Station House Officer and would keep her mobile location on. She would also furnish her undertaking to the effect that she will not indulge in any illegal activity.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage. The petition is accordingly disposed of.”

6. In view of afore-stated order passed by Co-ordinate Bench of this Court in the case of co-accused and involved facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

7. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

06.06.2023
Mohit Kumar

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