

101 (2nd case)

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

CRM-M-33301-2022 (O&M)

Date of decision : 01.05.2023

Nek Singh @ Harnek Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Anmol, Advocate,
for Mr. Zubin Chhura, Advocate,
for the petitioner.

Ms. Lavanya Paul, DAG, Punjab.

None for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.33 dated 14.03.2020, under Sections 302, 323, 34 of the Indian Penal Code, 1860 (*for short 'the IPC'*), registered at Police Station Phul, District Bathinda.

2. Allegations are that the petitioner along with other co-accused, committed murder of one-Lachhman Singh and brief narration would be as under:-

On 14.03.2020, complainant Chamkaur Singh received a phone call from his sister, Kuldeep Kaur, that her husband Kinder Singh and other family members were beating her up, mercilessly, whereupon, he along with his brother, Ashoki Singh, Ravi Singh, Mander Singh, Lachhman Singh, Jaspal Singh, went to the matrimonial home of Kuldeep Kaur. At around 8.00 a.m., when

complainant-Chamkaur Singh and his companions reached near the house of accused, Kinder Singh armed with wooden ruler, Nek Singh armed with wooden log, Harjinder Singh armed with Tamba made of wood and Karamjit Kaur armed with a wooden article meant for sitting, attacked the complainant party. Kinder Singh gave a blow with wooden ruler on the left leg of the complainant. Nek Singh gave a blow on the back of complainant. Karamjit Kaur gave a blow on the left hand and in the meantime, Harjinder Singh @ Soni gave a blow with wooden Tamba on the person of Lachhman Singh, who fell on the ground. The accused also gave beatings to Ravi Singh, Kuldeep Kaur and Mander Singh. On raising hue and cry, people gathered at the spot and accused fled away with their respective weapons. Lachhman Singh was taken to the hospital, where the doctor declared him dead.

3. This Court granted interim bail to the petitioner on 04.08.2022, in the following manner:-

“Contends that 02 accused, namely, Kinder Singh @ Baljinder Singh and Karamjit Kaur have already been granted the concession of bail by this Court vide orders dated 03.09.2021 & 05.07.2022, respectively. Also contends that as per prosecution case, only simple injury is attributed to the petitioner who is 62 years of age and in custody for the last more than 2 ½ years.

Learned State counsel seeks time to verify the above factual position.

Posted on 27.10.2022.

In the meantime, let petitioner be released on interim bail in this case subject to his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.”

4. Learned counsel contends that petitioner was granted interim bail by this Court on 04.08.2022 and he is regularly appearing before learned trial Court. Further submits that out of 17 prosecution witnesses, only 03 have been examined so far and there is no allegation that petitioner is likely to misuse the concession of bail.

5. Learned State Counsel, on instructions, has fairly acknowledged the above factual position.

6. Heard learned counsel for both the sides and perused the paper book.

7. Petitioner was granted interim bail by this Court and he is regularly appearing before the Court below; and there is no allegation that he is likely to misuse the concession of bail or hamper the proceedings in any manner, in case his interim bail is made absolute; thus, sending him in custody at this stage would not serve any purpose.

8. Consequently, present petition is allowed. Interim bail granted to the petitioner, vide order dated 04.08.2022, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. Petitioner shall appear on each & every date and fully co-operate with the learned trial Court without seeking any unnecessary adjournment(s).

10. The above observations may not be construed as an expression of opinion on the merits of the case.

11. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

01.05.2023

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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No