

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

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CRM-M-35661-2023
Date of decision: 20.09.2023

Sukhdev Singh @ Bhura and others
...Petitioners

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Yogesh Goel, Advocate and
Mr. Lakshay Goel, Advocate, for the petitioners

Mr. Manipal Singh Atwal, DAG, Punjab

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioners in FIR No.52, dated 31.03.2021, registered under Sections 307, 323, 506, 148 and 149 IPC, at Police Station Koom Kalan, District Ludhiana.
2. Learned counsel contends that the petitioners are in custody for 2 years and 1 month. It is a case of version and cross-version, it being recorded as GD No.32, dated 03.04.2021, Annexure P-2 by petitioner No.2-Piara Singh against 8 persons of the complainant party regarding the same incident, wherein injuries were caused to him. The police made out the offences under Sections 323, 341, 148, 149 and 206 IPC based on the aforesaid statement. As per the allegations levelled in the present case, petitioner No.1, gave an injury over the head of Surjit Singh with an iron angle, petitioner No.2-Piara Singh to Nachhatar Singh with iron rod and

petitioner No.3 with an iron rod injured Tahil Singh, which are all simple in nature, as revealed in MLR, Annexures P-3 to P-5. Co-accused Mangal Singh, Makhan Singh, Charanjit Singh @ Harinder Singh and Gurmukh Singh have been granted bail by this Court vide orders dated 07.07.2023 and 18.07.2023, Annexures P-14 & P-15 respectively. Charges were framed on 05.04.2022. Out of a total of 24 witnesses, only 1 witness was partially examined, whereafter, an application under Section 319 Cr.P.C. had been filed, which was allowed on 06.04.2023 for summoning two more accused namely Manjinder Singh and Dayal Singh. As per order dated 15.09.2023, the case is now fixed on 03.10.2023 for consideration on application calling status report in DDR No.32, dated 03.04.2021 as well as consideration on charge. Petitioner Nos.1 & 2 are involved in one more case, under Sections 323, 341, 354-B, 506, 148 and 149 IPC, wherein they are on anticipatory bail but petitioner No.3 is not involved in any other case. Reliance is placed on the judgment of Hon'ble The Supreme Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate of petitioner No.1-Sukhdev Singh @ Bhura dated 19.09.2023, filed by learned State counsel is taken on record, as per which, the petitioner No.1 is behind bars for 2 years, 1 month and 7 days.

4. Learned State counsel opposes the bail on the ground that the petitioners have actively participated in the commission of offence. He is however unable to controvert the submissions made regarding the stage of the trial, petitioner Nos.1 & 2 having been granted anticipatory bail in

another case and petitioner No.3 is not involved in any other case.

5. Heard.

6. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (Supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc." Reiterating in **Prabhakar Tewari vs. State of UP and another**, (2020) 11 SCC 648, it was observed that, "The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail."

7. Considering the facts and circumstances of the case, in particular that the petitioners are in custody for almost 02 years and 01 months; petitioner Nos.1 & 2 are on anticipatory bail in other case; there is no case against petitioner No.3; co-accused have been granted bail; charges were framed on 05.04.2022 and 1 prosecution witness, out of a total of 24 has been partially examined so far, the trial is likely to take a considerable time, thus their further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

8. As a result, the present petition is allowed. The petitioners are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate

concerned and subject to their not being required in any other case. The petitioners shall abide by the following conditions:-

- (i) The petitioners will not tamper with the evidence during the trial.
- (ii) The petitioners will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioners will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioners shall not commit an offence similar to the offence of which, they are accused, or for commission of which they are suspected of.
- (v) The petitioners shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioners shall not in any manner misuse their liberty.
- (vii) The petitioners shall furnish their address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioners seek to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioners shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioners.

9. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioners by this order.

10. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would

not be construed as an opinion on the merits of the case and the trial
would proceed independently of the aforesaid observations.

20.09.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No