

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

201

CRM-M-42795-2021 (O & M)  
Date of decision:16.02.2023

Gurpreet Singh

... Petitioner

Vs.

State of Punjab

... Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Abhinav Oberoi, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

Mr. Manoj Kumar, Advocate for the complainant.

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**SUVIR SEHGAL J. (ORAL)**

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in case FIR No.89 dated 31.03.2018, registered for offences under Sections 302, 307, 325, 324, 323, 148, 149 and 427 of the Indian Penal Code, 1860, at Police Station City Rajpura, Patiala, Punjab, Annexure P-1.

As per the case of the prosecution, the FIR was registered on the statement of Gurtej Singh and the genesis of the dispute was exchange of foul words between the complainant party and the accused. On 31.03.2018, the complainant along with Sohan Singh @ Sohna, Sukhwinder Singh @ Sukha, Lovepreet Singh, Sandeep Singh, Kamaljit Singh went to Khalsa Service Station on motorcycles, where Gurkirat @ Lambar, Jaskaran Bedi, Ashish Kumar @ Billa, Tota (present petitioner) and 35-40 other persons were already present and were armed with

*swords, kirchs and sticks*. They attacked the complainant and his companions. Ashish @ Billa slashed the right cheek of the complainant with a sword. Pannu and Tota gave *kirch* blow in the stomach of Sandeep and Sohan Singh with an intention to kill them. As a result of the injury sustained, Sohan Singh expired. On an alarm raised by them, a number of vehicles stopped and the armed accused fled away from the spot. The petitioner was arrested on 02.05.2018.

Gurpreet Singh @ Tota, petitioner herein, lodged a cross-case under Sections 452, 324, 323, 148, 149 of IPC, wherein he stated that he was running Khalsa Service Station on rent and Ashish @ Billa works with him. He undertakes the repairs of vehicles and stays at the service station. On 31.03.2018 when he, Gurkirat @ Lambar and Gurwinder Singh were washing a truck at the service station, Sukhwinder Singh rang up Gurpreet Singh and threatened him that he was coming to the service station and they should prepare themselves. Ashish @ Billa called a few friends to the spot. The complainant party comprising of 14 to 15 young boys came on motorcycles armed with *datar, swords and sticks*. Gurtej inflicted a *sword* blow on the left hand of Ashish and Sukhwinder gave a *sword* blow on Gurkirpal which hit him on his right arm and another blow on his right cheek. In the fight which ensued between the two groups, both the sides suffered injuries.

Counsel for the petitioner has urged that Sandeep Singh, who was injured and is one of the star witnesses of the prosecution, has been examined and in his deposition as PW-3 recorded, he has attributed the *kirch* blow in the abdomen of deceased, Sohan Singh to Atinderpal

Singh Pannu. Counsel urges that as per the testimony of this witness, the petitioner is accused of hitting him with a *kirpan* on his head. It is his argument that the statement of this witness is contrary to the statement of the complainant, Gurtej Singh, who had attributed the fatal blow to the petitioner. He urges that after the examination of this witness on 10.10.2019, the trial has come to a stand still as no other prosecution witness has appeared. He submits that although the petitioner was named as an accused in another FIR registered under Section 25 of the Arms Act, 1959, but he earned an acquittal from the Trial Court and is in custody in the present matter since 02.05.2018.

*Per contra*, learned State counsel, who is assisted by counsel for the complainant and upon instructions from ASI Rajinder Pal, has opposed the petition and has submitted that the petitioner is one of the main accused. He submits thatailable warrants have been issued for the presence of the other prosecution witnesses. On the basis of the Custody Certificate dated 14.02.2023, which is taken on record, State counsel is not in a position to dispute the custody period of the petitioner though he has expressed an apprehension that the petitioner may abscond.

Having heard counsel for the parties, this Court is of the view that the involvement of the petitioner in the murder of Sohan Singh @ Sohna would be a matter of debate before the Trial Court and the petitioner, who is in incarceration for the last more than four years and nine months, would be entitled to be released on bail as he has a clean past and the trial is likely to take time to conclude as only two out of thirty-one prosecution witnesses have been examined.

Petition is allowed.

Petitioner is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

While being released on bail, the petitioner shall surrender his passport, if any, and furnish an undertaking to the effect that henceforth he shall not get involved in any criminal activity. He will supply his mobile number to the Investigating Officer/State House Officer of the police station concerned, who will keep a check on his movements. In case of any violation, liberty is granted to the State to seek cancellation of the bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

Pending application(s), if any, shall stand disposed of.

16.02.2023  
*Kamal/sheetal*

(SUVIR SEHGAL)  
JUDGE

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |