

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108+227

CRM-M-38304-2023 (O&M)

Date of Decision: 12.09.2023

Happy

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Karanjeet Singh Brar, Advocate,
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

VIKAS SURI, J. (Oral)

[1] By way of instant petition under Section 439 of the Code of Criminal Procedure, 1973, petitioner seeks regular bail, in case FIR No.66 dated 17.04.2022, under Sections 302, 324, 323, 148 and 149 of the Indian Penal Code (for short 'IPC') registered at Police Station Sadar Fazilka, District Fazilka.

[2] Briefly stated the facts are that the above-said FIR was registered on the statement of one Jaspreet Singh son of Jaswinder Singh resident of Village Ojhawali, Tehsil and District Fazilka, on the allegations that on 16.04.2022 at about 11:00 PM, he went to his uncle Chhinda Singh, who runs a chicken shop at bus stand of their Village and when they were closing the shop down, persons namely, Sukhchain Singh, Prem Singh and Jagga Singh, all armed with *kappa*'s, Baljinder Singh, armed with *dang*,

Jaswinder Singh son of Makhan Singh, all residents of Village Ojhawali, accompanied by Kamal and Sonu residents of Village Jhok Dipulana, Happy son of Makhan Singh, armed with *kappa*'s and *kirpan* came there and started quarrelling with his uncle Chhinda Singh, as he had refused to serve eggs and meat as demanded by them. On hearing noise, other uncle of the complainant namely, Paramjit Singh, complainant's father Jaswinder Singh and aunt (*Chachi*) Saroj Rani wife of Chhinda Singh, also reached the spot and tried to stop the assailants but they did not and Jaswinder Singh raised a *lalkara*, to teach them (complainant party) a lesson for quarrelling with them whereupon, Sukhchain Singh gave a *kappa* blow on left side of head of Paramjit Singh; Prem Singh gave a *kappa* blow on left thigh of Paramjit Singh, Kamal gave *kappa* blow from its reverse side on the left shoulder of Paramjit Singh; Jagga Singh gave a *kappa* blow (reverse side) on left foot of his uncle Paramjit Singh; Jagga Singh gave a *kappa* blow to Jaswinder Singh near his right eye; Prem Singh gave a *kappa* blow to Jaswinder Singh on the left side of his neck; Happy gave a *kappa* blow (reverse side) to Jaswinder Singh on his left shoulder. Sonu gave *kirpan* blow to Jaswinder Singh on his right under arm and some unknown persons gave injuries with a wooden log injuring left elbow and middle finger of left hand of Jaswinder Singh. Thereafter, Baljinder Singh is alleged to have given three continuous *dang* blows to Jaswinder Singh on both thighs as well as on his left arm. Then Sukhchain Singh gave a *kappa* blow on left wrist of Jaswinder Singh; Prem Singh gave a *kappa* blow on left knee of complainant and Kamal gave *kappa* blow on his left bicep. Thereafter, some unknown persons gave *dang* blows on right knee of Chhinda Singh and Baljinder Singh gave a *dang* blow to Chhinda Singh on his left knee as well as foot. Sukhchain Singh gave a

kappa blow from its reverse side to Chhinda Singh on his left elbow and when Baljinder Singh gave a *dang* blow on the head of Chhinda Singh who in order to save himself raised his right hand and it hit on his ring finger. Then Happy Singh gave a *kappa* blow to Chhinda Singh on his back. Thereafter, Baljinder Singh gave a *dang* blow which hit left arm of his aunt Saroj Rani. Upon hue and cry being raised by complainant side, all the assailants along with their respective weapons fled away from the spot on their respective motor-cycles. The injured were shifted to Civil Hospital, Fazilka but since the condition of his uncle Paramjit Singh and his father Jaswinder Singh was serious, they were referred to G.G.S. Medical College and Hospital, Faridkot, for treatment.

[3] On the basis of said complaint and after receipt of medical record of the injured, the FIR in question was registered under Sections 324, 323, 148, 149 IPC against Sukhchain Singh, Prem Singh, Jagga Singh, Baljinder Singh, Jaswinder Singh, Kamal, Sony, Happy (petitioner) and 4/5 other unknown persons. Upon receipt of information via *e-mail* on 24.04.2022 from G.G.S. Medical College and Hospital, Faridkot, regarding death of injured Paramjit Singh son of Pritam Singh, during treatment, offences under Section 302 and 120-B IPC were added vide DDR Nos.15 and 38 dated 24.04.2022 against the aforesaid accused persons.

[4] Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. As per prosecution story, petitioner had given a *kappa* blow from its reverse side on the left shoulder of Jaswinder Singh and a *kappa* blow on the back of Chhinda Singh, whereas, no such injuries were found on the left shoulder of Jaswinder Singh or at the back of Chhinda Singh, as alleged. Further, no

injury has been attributed to him qua deceased Paramjit Singh. Learned counsel further submits that four injuries were found on the person of deceased Paramjit Singh and those were attributed to co-accused Sukhchain Singh, Prem Singh, Kamal and Jagga. Learned counsel further submits that no investigation worth its name as regards the cause of death of deceased Paramjit Singh were carried out and merely on receipt of information from the hospital, offence under Section 302 IPC was added. The cause of death of deceased injured as per medical records came to be cardiac arrest. Learned counsel further submits that present occurrence is a result of free fight between two warring groups and versions and cross-version cases were registered against two factions. The petitioner was not even present at the spot on the day of alleged occurrence and the allegations made against him are totally false and baseless. It is further submitted that co-accused in this case namely Baljinder Singh who was armed with *dang* and has been attributed injuries has been granted the concession of regular bail by this Court. Lastly it is submitted that petitioner is in judicial custody since 08.06.2022 and nothing is to be recovered from him; investigation is complete; *challan* already stands presented on 18.08.2022; charges are yet to be framed; the trial is likely to take some time and thus, no useful purpose would be served by detaining the petitioner behind bars any further; accordingly, prayer for grant of regular bail to the petitioner has been made.

[5] *Per contra*, learned State counsel has filed the custody certificate dated 27.08.2023 in Court today and opposed the prayer for grant of regular bail to the petitioner on the ground of heinousness and gravity of the offence. He further submits that the petitioner along with his companions caused injuries to the complainant and his other family members. Due to

said injuries, Paramjit Singh son of Pritam Singh, died on 24.04.2022 during his treatment at G.G.S. Medical College and Hospital, Faridkot. He further submitted that the *challan* has since been presented; charges are yet to be framed and the prosecution has to lead its evidence and if the petitioner is allowed bail, at this stage, would certainly hamper its case. Learned State counsel, on instructions from ASI Bhagwan Chand, Police Station Sadar Fazilka, further submitted that the histopathological report regarding cause of death of injured Paramjit Singh is still awaited. Learned State counsel also submitted that the cross-case during investigation was found to be false. Hence, dismissal of the present bail petition is prayed for.

[6] Learned counsel appearing for the complainant has also opposed the grant of bail to the petitioner on the same very lines stating that the petitioner has played vital role in the occurrence. He, however, could not dispute the factum of grant of bail to one of the co-accused by this Court.

[7] Heard learned counsel for the parties.

[8] Initially, the FIR in this case was registered under Sections 324, 323, 148, 149 IPC. There were five injured in this case. Out of them one injured namely Paramjit Singh, succumbed to the injuries sustained during the course of his treatment and offence punishable under Section 302 IPC was added. The injuries detailed in the medico legal reports of the injured persons are as under :-

“(a)As per MLR No.SK/09/2022/FZK dated 17.04.2022 (Civil Hospital, Fazilka) of the injured-deceased Paramjit Singh son of Pritam Singh, there were four injuries on his body (later on the said injured died).

(b) As per MLR No.SK/10/2022/FZK dated 17.04.2022 (Civil Hospital, Fazilka) of the injured Jaswinder Singh son of

Pritam Singh, there are seven injuries on his body.

(c) As per MLR No.SK/11/2022/FZK dated 17.04.2022 (Civil Hospital, Fazilka) of the complainant-injured Jaspreet Singh son of Jaswinder Singh, there are two injuries on his body.

(d) As per MLR No.SK/12/2022/FZK dated 17.04.2022 (Civil Hospital, Fazilka) of the injured Saroj Rani wife of Chhinda Singh, there is one injury on her body.

(e) As per MLR No.SK/13/2022/FZK dated 17.04.2022 (Civil Hospital, Fazilka) of the injured Chhinda Singh son of Pritam Singh, there are five injuries on his body.”

[9] The injuries suffered by the complainant side as also the persons to whom, the said injuries have been attributed, is being reflected in the injury chart as under :-

INJURY CHART

**NAME OF INJURED: PARAMJIT SINGH SON OF PRITAM SINGH
NUMBER OF INJURIES : 4**

<i>Injury No.</i>	<i>Type of weapon</i>	<i>Name of the accused who caused injury</i>	<i>Part of body on which the injury was caused</i>
<i>1</i>	<i>Kapa</i>	<i>Accused Sukhchain Singh</i>	<i>On left side of head</i>
<i>2</i>	<i>Kapa</i>	<i>Accused Prem Singh</i>	<i>On left thigh</i>
<i>3</i>	<i>Kapa (reverse side)</i>	<i>Accused Kamal</i>	<i>On shoulder</i>
<i>4</i>	<i>Kapa (reverse side)</i>	<i>Accused Jagga Singh</i>	<i>On left leg</i>

**NAME OF INJURED: JASWINDER SINGH SON OF PRITAM SINGH
NUMBER OF INJURIES :7**

<i>Injury No.</i>	<i>Type of weapon</i>	<i>Name of the accused who caused injury</i>	<i>Part of body on which the injury was caused</i>
<i>1</i>	<i>Kapa</i>	<i>Accused Jagga Singh</i>	<i>Near right eye</i>
<i>2</i>	<i>Kapa</i>	<i>Accused Prem Singh</i>	<i>On left side of neck</i>
<i>3</i>	<i>Kapa (reverse side)</i>	<i>Accused Happy</i>	<i>On left shoulder</i>
<i>4</i>	<i>Kirpan</i>	<i>Accused Sonu</i>	<i>On right hand</i>

5	Wooden log	Unknown accused	(kuchh) On left elbow
6	Dang (stick)	Accused Baljinder Singh	Three blows – One on left thigh, Second on right thigh and third on left arm.
7	Kapa	Accused Sukhchain Singh	On left thigh

NAME OF INJURED:JASPREET SINGH SON OF JASWINDER SINGH

NUMBER OF INJURIES :2

Injury No.	Type of weapon	Name of the accused who caused injury	Part of body on which the injury was caused
1	Kapa	Accused Prem Singh	On left knee and outer area
2	Kapa	Accused Kamal	On left arm bicep

NAME OF INJURED:CHHINDA SINGH SON OF PRITAM SINGH

NUMBER OF INJURIES :5

Injury No.	Type of weapon	Name of the accused who caused injury	Part of body on which the injury was caused
1	Dang (stick)	Unknown accused	On right knee
2	Dang (stick)	Accused Baljinder Singh	On left knee
3	Kapa (reverse side)	Accused Sukhchain Singh	On left elbow
4	Dang (stick)	Accused Baljinder Singh	On ring finger
5	Kapa	Accused Happy	On back

NAME OF INJURED:SAROJ RANI

NUMBER OF INJURIES :1

Injury No.	Type of weapon	Name of the accused who caused injury	Part of body on which the injury was caused
1	Dang (stick)	Accused Baljinder Singh	On left arm

[10] On the person of injured, Paramjit Singh, who died on

24.4.2022 during the course of his treatment four injuries were found, out of which, one was on the left side of his head; one on his left thigh; other one was on the shoulder and fourth one on his left leg. However, none of the said injuries is attributed to the petitioner.

[11] As per the status report, although the post mortem on the dead body of deceased Paramjit Singh was conducted vide Post Mortem Report No.PMR/12/2022/GS dated 24.04.2022 but opinion regarding cause of death was kept reserved till the receipt of histopathological report, by the doctors, which is still awaited. On the other hand, as per the learned counsel for the petitioner, deceased Paramjit Singh, expired due to cardiac arrest.

[12] In the afore-mentioned circumstances, since the petitioner has not been attributed any injury to deceased Paramjit Singh; accordingly, whether the offence under Section 302 IPC would be attracted towards the petitioner, shall be determined at trial.

Be that as it may, a perusal of the custody certificate shows that the petitioner has been in custody for 01 year, 02 months and 20 days and there is no other case against him. Investigation in the case is complete qua the petitioner and *challan* already stands presented before the Court on 18.08.2022. Thus, trial would take time to conclude. Moreover, co-accused Baljinder Singh, having less custody period than the petitioner, has been granted the concession of regular by this Court vide order dated 02.06.2023 passed in CRM-M-50205-2022.

[13] Keeping in view the above discussion, 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 trial Court/Illaq Magistrate/Duty Magistrate concerned.

[14] Further, the petitioner on his release from the Jail, shall appear before the concerned SHO, to inform about his address and Mobile telephone number where he must be available or he intends to reside during the pendency of the case and any change in his address shall be communicated to the concerned SHO, forthwith. The petitioner would have to always keep his mobile location on. He shall further keep on appearing before the SHO concerned on first Monday of every month till the conclusion of trial and to further inform in writing that he is not involved in any other crime other than the case(s) mentioned in the this order.

[15] In addition to above, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of ₹1,00,000/- and deposit the same with the trial Court. The same would be liable to be forfeited as per law, in case of his failure to present himself on each and every date before the trial without sufficient cause.

[16] Nothing expressed herein above shall be construed to be an observation on the merits of the case, and facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

[17] The petition is accordingly disposed of.

[18] Pending miscellaneous application, if any, stands disposed of.

September 12, 2023

harish

**(VIKAS SURI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No