

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

287

CRM-M-43434 of 2023(O&M)

Date of Decision: 03.11.2023

Arjun Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Amrit Paul Nahar, Advocate
for the petitioner.

Mr. Anurag Bansal, AAG, Punjab.

Mr. Anil Kumar Spehia, Advocate
for the complainant.

SANJAY VASHISTH, J.(Oral)

CRM-36493 of 2023

Allowed as prayed for.

CRM-M-43434 of 2023(O&M)

1. Present second petition has been filed by the petitioner under Section 439 Cr.P.C. for seeking regular bail in case FIR No.03 dated 14.01.2019, under Sections 302, 323, 325, 34 IPC, registered at Police State Sadar, Nakodar, District Jalandhar.
2. Learned counsel for the petitioner refers to the version mentioned in the FIR which is reproduced in the order dated 05.07.2023 passed by the co-ordinate bench of this Court in the bail petition of co-accused-Harshvir Singh @ Gagan i.e.CRM-M-22252 of 2023, wherein version of FIR has been taken up from the order dated

13.06.2019 passed by the Court of Additional Sessions Judge-cum-vacation judge, Jalandhar. For the sake of convenience, the said part is also reproduced hereunder:

“ Tersely put, the present case has been got registered on the statement of Sukhjinder Singh son of Satnam Singh, wherein, he has stated that on 13.01.2019 on account of Lohri festival people from locality had arranged bonfire at Samadawala Chowk. My residents of the Mohalla were sitting around the fire. He alongwith his brother Kamaljit Singh and friend Balwinder @ Bunty were also sitting there. Arjan Singh, his brother Harshvir Singh also came there. Arjan Singh taunted him due to which he felt ashamed. He also replied them in anger whereupon both of them took him aside and started beating him. His brother Kamaljit Singh and his friend Balwinder @ Bunty got saved him from them Arjan Singh also called his father there on telephone, who also started abusing them. The people sitting near the fire made them understand. Then, Arjan Singh and Harshvir Singh alongwith their father went back to their house. After sometime, he alongwith his brother Kamaljit Singh was going to leave their friend Bunty and when they reached near Jasvir Singh's house around 9 PM, then, Jasvir Singh alongwith his both sons Arjan Singh and Harshvir Singh armed with kirpan and hockeys were standing there whereupon Jasvir Singh raised lalkara upon which Arjan Singh and Harshvir Singh gave blows to him and his friend Balwinder with kirpan and hockey and their father Jasvir Singh gave hockey blows on the head of his brother Kamaljit Singh. They raised hue and cry upon which Gurmail Singh came on the spot and saved them. His brother Kamaljit Singh sustained major injuries on his head and fell down on the ground. Gurmail Singh called his father on the spot and after arranging the vehicle admitted them in the hospital where doctor declared his brother Kamaljit Singh dead and referred him and his friend Balwinder to Civil Hospital, Jalandhar, where they are under treatment. On the basis of this statement, present FIR was registered.”

3. Learned counsel for the petitioner further points out that
Jasvir Singh and his two sons Arjun Singh (present petitioner) and

Harshvir Singh @ Gagan, have been implicated as accused in the present criminal case. He also submits that as per allegations, co-accused-Harshvir Singh @ Gagan and Arjun Singh (present petitioner) armed with Kirpan and hockeys came on the spot and on raising lalkara by their father Jasvir Singh, Arjun Singh and Harshvir Singh @ Gagan gave kirpan and hockey blows to the complainant-Sukhjinder Singh and Balwinder @ Bunty. Jasvir Singh gave hockey blows on the head of the brother-Kamaljit Singh. On making hue and cry, Grumail Singh arrived on the spot and saved them.

4. Learned counsel for the petitioner submits that from the allegations levelled in FIR, it is clear that the fatal blow has been attributed against co-accused-Jasvir Singh (father of petitioner-Arjun Singh), who gave hockey blows on the head of Kamaljit Singh (deceased). Learned counsel also submits that co-accused namely, Harshvir Singh @ Gagan has already been granted the concession of bail by co-ordinate bench of this Court considering his long custody and slow pace of the trial, vide order dated 05.07.2023 passed in CRM-M-22252 of 2023. Learned counsel also submits that there being no explanation regarding any specific injury or any fatal injury attributed to the petitioner and on the ground of parity, the petitioner deserves the concession of bail.

5. On the other hand, learned State counsel submits that out of total 21 prosecution witnesses, 17 have already been examined and in near future, trial is likely to conclude.

6. Learned State counsel and learned counsel for the complainant could not specify any injury attributed to the petitioner proving fatal to the life of Kamaljit Singh (deceased) and also could not point out any special distinction from the role attributed to the co-accused-Harshvir Singh @ Gagan, who has already been extended the concession of bail.

7. Learned State counsel has filed the custody certificate dated 01.11.2023 of the petitioner in the Court. The same is taken on record. From the said custody, learned State counsel admits the factum of total undergone period by the petitioner i.e. four years, nine months and twenty days and from the said custody certificate, he is unable to point out registration of any other criminal case against the petitioner.

8. This Court is satisfied by the reason that no special distinction has been drawn by the prosecution between the role attributed to the petitioner and role attributed to the co-accused-Harshvir Singh @ Gagan, who has already been granted concession of bail. Another noticeable fact is that undisputedly, without registration of any other criminal case against the petitioner, the trial is going on a slow pace. Till date, the process of recording of the prosecution evidence has not been completed and only 17 prosecution witnesses have been examined out of total 21 prosecution witnesses.

9. Considering the totality of circumstances stated and recorded hereabove, after examining the facts available from the

petition, no useful purpose will be served by keeping the petitioner in custody till the final disposal of the case.

Without expressing any opinion on the merits of the case, this petition is allowed. Petitioner-Arjun Singh be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court concerned.

[SANJAY VASHISTH]
JUDGE

November 03, 2023
rashmi
Whether speaking/reasoned
Whether reportable?

Yes/no
Yes/no