

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

CRM-M-53010-2021

Date of decision: 16.03.2023

Surjit Singh @ Surjeet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. B.S. Toor, Advocate for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

Petitioner has filed this second petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.69 dated 19.05.2020 under Sections 307, 323, 341, 148, 149 and 120-B Indian Penal Code, 1860 registered at Police Station Chajjli, District Sangrur, who is in custody since his arrest on 07.12.2020.

The allegations contained in above FIR, as noticed by the learned Additional Sessions Judge, Sangrur in the order dated 25.11.2021 are as under:-

“As is transpired from the record, the FIR in the present case was registered on the basis of statement of complainant Beant Singh who stated that he is an agriculturist. On 18.05.2020 at about 10:15 PM, his brother Varinder Singh @ Satgur Singh along with his wife Sukhdeep Kaur, was returning home on his two wheeler after paying a visit to his sister-in-law. As they reached near bus stand Ratola, Gagandeep Singh Sarpanch, Surjit Singh (present applicant), Lakhi Singh, Banty Singh, Rohi Singh and nephew of Rohi Singh along with two unknown persons were standing there. They intercepted them. Sukhdeep Kaur rushed to home and shouted loudly that Varinder Singh was killed by the party of Sarpanch. Upon which, he along with his father Banta Singh rushed to the spot and Gagandeep

Sarpanch, in his presence, gave an iron rod blow on the head of his brother with an intention to kill him. Varinder Singh fell down, whereupon Surjit Singh (present applicant) gave blows of iron rod and Lakhi Singh gave stick blows on his legs and arms. Rohi Singh, Banty Singh and nephew of Rohi Singh also gave stick blows on the person of his brother. As he (complainant) and his father proceeded ahead to rescue his brother from their clutches, Gagandeep Sarpanch gave blow of iron rod on his left ear. Banty Singh gave stick blow on his head. Lakhi Singh gave stick blow on his left leg. He fell down and while he was lying on the ground, Rohi Singh and his nephew gave various blows of sticks on his left leg and leg arm. Similarly, as his father came forward to rescue, Gagandeep Singh and others inflicted injuries on his person. On hearing their noise, the people gathered there. Thereafter, the above said persons fled from the spot along with their respective weapons.”

Learned counsel for the petitioner has argued that the petitioner along with 13 other accused persons was implicated in the above mentioned FIR allegedly for causing injuries to victim-Beant Singh, Banta Singh and Varinder Singh. He has referred to the averments made in paragraph No.4 of the status report dated 25.01.2023 filed on behalf of respondent-State of Punjab wherein details of injuries attributed to all the accused including the present petitioner have been given and the petitioner is at serial No.9 and another co-accused Gagandeep Singh is at serial No.11. The same is reproduced as under:-

Sr. No.	Name of accused	Name of injured	Injury No.	Weapon used	Body part	Offence
9.	Surjit Singh (petitioner)	Varinder Singh	2	Iron rod	Gave iron rod blow on right leg	325 IPC
10.	Do	Banta Singh	5	Iron rod	Gave rod blow on right wrist	
11.	Gagandeep Singh	Varinder Singh	1	Gandasa	Gave gandasa blow on the left frontal region of head.	307, 326 IPC

He further submits that the injury attributed to the petitioner falls under Section 325 IPC, which is bailable and the injury attributed to Gagandeep

Singh falls under Section 307/326 IPC and he has already been released on bail by Co-ordinate Bench of this Court vide order dated 04.07.2022. He further submits that the petitioner is in custody for more than 2 years and 3 months and the investigation is complete; challan has been presented; charges have been framed; out of 25 prosecution witnesses only 2 have been examined as yet and the case is fixed for hearing on 17.03.2023 for the prosecution evidence. He further submits that the trial is likely to take considerable time to conclude and therefore, no fruitful purpose would be served in retaining the petitioner further in custody.

Per contra, the learned State counsel while filing the custody certificate of the petitioner submits that custody period of the petitioner is 2 years 3 months and 9 days, however, the petitioner remained involved in other FIR cases.

To controvert the said assertion made by the learned counsel for the State, counsel for the petitioner submits that in FIR No.37 dated 24.04.2013 and FIR No.53 dated 27.07.2013, the petitioner was convicted and has already undergone the sentence; in FIR No.139 dated 04.11.2013 cancellation report was filed in the Court on 04.06.2016 and in FIR No.86 dated 05.08.2014 FIR has been quashed vide order dated 27.11.2014 in CRM-M-30019-2014. He has relied upon the judgment of Hon'ble Supreme Court passed in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** to contend that the involvement of the petitioner in other cases cannot be made a ground to deny the concession of bail in the present case. The relevant portion of the said judgment is reproduced as under:-

“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.”

After hearing learned counsel for the parties, considering the above background, custody of the petitioner which is 2 years, 3 months and 9 days; investigation is complete; challan has been presented; out of 25 witnesses only 2 have been examined; the trial is likely to take considerable time to conclude and the main accused Gagandeep Singh has already been released on regular bail. Therefore, further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody. Apart from it, the material witnesses are either the injured or police officials and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

16.03.2023

Parveen kumar

**(NAMIT KUMAR)
JUDGE**

Whether speaking/reasoned :Yes/No

Whether reportable :Yes/No