

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

CRM-M-46711-2023

Date of Decision:22.09.2023

Surmukh Singh

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Simranjeet Singh Sarwara, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. On the oral request made by learned counsel for the petitioner, Section 325 IPC is ordered to be added in the headnote as well as the prayer clause of the present petition. Learned counsel for the petitioner is permitted to make the said correction in the Court itself.

2. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.30 dated 31.03.2023 registered under Sections 307, 324, 341, 323, 506, 148, 325, 149 of IPC at Police Station Sadar Rajpura, District Patiala.

3. The FIR in the present case was registered on the basis of the statement made by Devinder Singh son of Dilbagh Singh. As per the complainant, at about 5.25 p.m. on 30.03.2023, he was lifting soil from the fields of his friend Fakir Singh with his tractor trailer and levelling the fields, which were on a lower level. His brother Daljit Singh and Gagandeep Singh

and Ajaib Singh were also present with him. In the meantime, 15/16 persons on a three-wheeler and on motorcycle came there and started assaulting him. He identified the said persons as Manjit Singh son of Kaka Singh, Rama Singh, Harjinder Singh alias Jindra, Simmu, Gurwinder Singh alias Guriya, Nazar Singh, Ravi, Daman, Kaka, Sandeep alias Deep, Jassi, Shoki, Nimma, Harman and Prince and Gurmukh Singh son of Pal Singh. The complainant tried to escape by increasing the speed of his tractor, but they encircled his tractor. He alighted from the tractor and tried to run away, but Harjinder Singh alias Jindra gave a blow with his *kirpan*, which struck him on his right leg. Manjit Singh gave a *kirpan* blow on his right side of his head, Ram Singh gave a *kirpan* blow on the left foot and he fell down. Simmu son of Sukhwinder Singh gave a blow with *kirpan* on his left leg, Nazar Singh caused an injury with *danda* on his left arm and he raised the alarm to save him. His brother Gagandeep Singh and Ajaib Singh came to help him but the assailants threatened them. Gurmukh Singh told them that they would also meet the same fate and he gave a blow with his *kirpan* on Devinder's head, which struck him on the rear side of his head. Gurwinder Singh alias Guriya gave a blow with *kirpan*, which struck on little finger of his left hand. Ravi, Daman, Kaka also gave blows on his back with their baseball bats. When he was trying to save himself, Sandeep Singh alias Deep, Jassi, Shoki gave him several blows with their *dandas*. He fell down and Nimma gave a blow on his left arm with *kirpan*. He raised an alarm, Harman and Prince and two other persons came there gave the blows with *danda* to him. With these broad allegations, the FIR in the present case was registered by the complainant.

4. Learned counsel for the petitioner submits that the petitioner was not present at the place of occurrence and his presence has been wrongly shown by mentioning the name of Gurmukh Singh son of Pal Singh; whereas his name is Surmukh Singh son of Satpal Singh. He further contends that as per the allegations, the petitioner is alleged to have caused a blow with *kirpan* on the rear side of the head of Gurwinder, but as per the MLR (Annexure P-2) of Devinder, the said injury does not find mention in the MLR. Learned counsel further contends that he is in custody since 04.05.2023 and the challan has already been presented before the Court. He further contends that the charges are yet to be framed and the trial Court may take quite a long time in concluding the trial and his further custody will serve no meaningful purpose. Learned counsel further refers to the orders Annexures P-4 to P-7 to contends that co-accused Gurvinder Singh alias Guriya, Ram Singh @ Rama, Harjinder Singh @ Jindra and Gursimran Singh @ Simmu have been granted the concession of anticipatory bail/interim anticipatory bail by this Court.

5. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that specific attribution to the petitioner is there in the FIR and he alongwith other co-accused had open murderous assault to the injured.

6. I have heard the learned counsel for the parties and perused the record.

7. It is not in dispute that the petitioner is in custody since 04.05.2023 and the challan has already been presented in the present case. Since the charges have not been framed by the trial Court, consequently, the trial Court may take considerable time in concluding the trial.

8. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

22.09.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No