

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

**CRM-M-50205-2022(O&M)
Date of Decision: 02.06.2023**

BALJINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. S.P.S. Tinna, Advocate
for the petitioner.

Mr. Harjinder S. Sidhu, A.A.G., Punjab.

Mr. B.K. Saini, Advocate
for the complainant.

HARSH BUNGER, J.

Petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail, in case FIR No.0066 dated 17.04.2022, registered under Sections 324, 323, 148 and 149 of the Indian Penal Code (for short 'IPC') (Section 302 IPC, added later on vide Rapat No.15 dated 24.04.2022 and Section 120-B IPC, added vide Rapat No.38 dated 24.04.2022).

2. Pursuant to the advance copy of petition having been served upon learned State counsel, status report dated 17.04.2023 by way of an affidavit of Sh. Shubeg Singh, PPS, Deputy Superintendent of Police, Sub Division, Fazilka, District Fazilka, on behalf of respondent-State of Punjab, has been filed, which is already on record.

3. Custody certificate dated 22.04.2023 of the petitioner has been filed by learned State counsel in the Court, which was taken on record vide

order dated 24.04.2023.

4. Succinctly, the above-said case FIR was registered on the statement of one Jaspreet Singh son of Jaswinder Singh resident of Village Ojhawali, Tehsil and District Fazilka, alleging therein that on 16.04.2022 at about 11:00 p.m., he went to the shop of his uncle Chhinda Singh, who runs a chicken centre at bus stand of their Village and when they were closing the shop, some persons namely, Sukhchain Singh, armed with *kappa*, Prem Singh, armed with *kappa*, Jagga Singh, armed with *kappa*, Baljinder Singh, armed with *dang*, Jaswinder Singh S/o Makhan Singh, all residents of Village Ojhawali, accompanied by Kamal resident of Village Jhok Dipulana, armed with *kappa*, Happy son of Makhan Singh, armed with *kappa* and Sonu resident of Village Jhok, Dipulana, armed with *kirpan* came there and started quarelling with his uncle Chhinda Singh, as he refused to give eggs, meat demanded by them. It is stated that upon hearing the noise, another uncle of the complainant namely, Paramjit Singh, complainant's father Jaswinder Singh and aunt (*Chachi*) Saroj Rani wife of Chhinda Singh, also came at the spot and tried to resist the act of the assailants but they did not stop and Jaswinder Singh raised a *lalkara*, by saying that teach them a lesson for quarelling with them whereupon, Sukhchain Singh gave a *kappa blow* hitting left side of head of Paramjit Singh; Prem Singh gave a *kappa blow* hitting 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) hitting Paramjit Singh on his left foot; Jagga Singh gave a *kappa blow* hitting Jaswinder Singh near his right eye; Prem Singh gave a *kappa blow* hitting Jaswinder Singh on the left side of his neck; Happy gave a *kappa blow* (reverse side) hitting Jaswinder Singh on his left shoulder.

Sonu gave *kirpan blow* hitting Jaswinder Singh on his right under arm and some un-known persons gave injuries with a wooden log injuring Jaswinder Singh at his left elbow and middle finger of left hand. Thereafter, Baljinder Singh is alleged to have given three continuous *dang blow* to Jaswinder Singh hitting his both the thighs as well as left arm. Then Sukhchain Singh is alleged to have given a *kappa blow* hitting Jaswinder Singh on his left wrist; Prem Singh allegedly gave a *kappa blow* hitting the complainant below his left knee and Kamal gave *kappa blow* hitting on his left bicep. Thereafter, some un-known persons gave *dang blow* hitting Chhinda Singh on his right knee and Baljinder Singh allegedly gave a *dang blow* hitting Chhinda Singh on his left knee as well as foot. Then Sukhchain Singh gave a *kappa blow* hitting Chhinda Singh on his left elbow from its reverse side and when Baljinder Singh tried to give a *dang blow* on the head of Chhinda Singh, Chhinda Singh raised his right hand to save from that blow, which hit on his ring finger. Then Happy Singh gave a *kappa blow* hitting Chhinda Singh on his back. Thereafter, Baljinder Singh allegedly gave a *dang blow* hitting his aunt Saroj Rani, on her left arm. Upon raising hue and cry by the complainant party, all the assailants along with their respective weapons fled away from the spot on their respective motor cycles while raising *lalkara*. It is stated in the complaint that injured Saroj Rani and other injured persons were taken to Civil Hospital, Fazilka but since the condition of uncle of the complainant namely, Paramjit Singh and his father namely, Jaswinder Singh was serious; therefore, they were referred to G.G.S. Medical College and Hospital, Faridkot, for treatment.

5. On the basis of said complaint and after collecting the 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 (petitioner), Jaswinder Singh, Kamal, Sony, Happy and 4/5 unknown persons. Upon getting an 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, offence under Section 302 IPC was added in the FIR in question vide DDR No.15 dated 24.04.2022 and offence under Section 120-B IPC was added in the FIR in question vide DDR No.38 dated 24.04.2022, against the said accused persons.

6. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in the present case. It is submitted that as per the prosecution story, the petitioner was armed with *dang* and has given blows to the complainant party, whereas, the version of the petitioner is that no injury whatsoever has been attributed to him qua deceased namely, Paramjit Singh and that the injuries which are stated to have been attributed to him, have been declared to be simple in nature. Learned counsel further submits that there were four injuries on the person of Paramjit Singh (deceased) and that too were given by Sukhchain Singh, Prem Singh, Kamal and Jagga and no injury, whatsoever, has been attributed to the present petitioner. Learned counsel further submitted that the police authorities have not done any investigation, whatsoever, with regard to cause of death of deceased Paramjit Singh and merely after receiving an e-mail from the hospital, offence under Section 302 IPC has been added; whereas, the alleged occurrence is of dated 17.04.2022 and Paramjit Singh had died on 24.04.2022 i.e. after a gap of 8 days. He further submitted that on the statement of son of the petitioner, the police, vide Rapat No.35 dated

17.04.2022 (Annexure P-2), registered cross case under Sections 324 and 323 read with Section 34 of the IPC. Learned counsel further submits that the petitioner has been dragged in the present case being the father of Sukhchain Singh, whereas, he was not even present on the spot on the day of alleged occurrence and had gone to his sister's house; hence, the allegations against him are totally false and baseless. It is next submitted that as per medical certificate (Annexure P-11), the cause of death of Paramjit Singh, is 'cardiac arrest.' Learned counsel submits that the petitioner applied for regular bail before the learned trial Court; however, his bail application has wrongly been dismissed vide order dated 29.08.2022. It is submitted that the petitioner is in judicial custody since 21.05.2022 and nothing is to be recovered from him; investigation in the case is complete qua the petitioner; challan already stands presented on 18.08.2022; charges are yet to be framed; the trial is likely to take some time and no useful purpose would be served by further incarceration of the petitioner; accordingly, prayer for grant of regular bail has been made by the petitioner.

7. Per contra, learned State counsel has opposed the prayer for grant of regular bail to the petitioner on the ground of seriousness and gravity of the offence. He further submits that the petitioner and his co-accused caused injuries to the complainant and his four associates, due to which, injured 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 before the learned Illaqa Magistrate on 18.08.2022 and the same is yet to be received in the Sessions Court by way of commitment; charge is yet to be framed and the prosecution has to lead its evidence and if the petitioner is released on bail at

this early stage of the case, he would cause hamper to the prosecution case. Learned counsel further submitted that the report regarding cause of death of Paramjit Singh, is still awaited. While referring to status report, learned State counsel submitted that the cross-case was found to be false and during investigation, the incriminating evidence was found against the petitioner. Hence, dismissal of the present bail petition is prayed for.

8. I have heard learned counsel for the parties; perused the paper book; status report filed as well as the custody certificate of the petitioner filed by learned State counsel.

9. In the instant case, initially, the FIR was registered under Sections 324, 323, 148, 149 IPC against eight accused (including the petitioner). In the alleged occurrence, there were five injured from the side of the complainant party. The occurrence is of dated 17.04.2022. The details of '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.”

10. The injuries suffered by the members of the complainant side
and also the persons to whom, the said injuries have been attributed, is
reflected in the injury chart, which is annexed as Annexure R-1 with the
status report dated 17.04.2023 and the same reads 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>
1	Kapa	Accused Sukhchain Singh	On left side of head
2	Kapa	Accused Prem Singh	On left thigh
3	Kapa (reverse side)	Accused Kamal	On shoulder
4	Kapa (reverse side)	Accused Jagga Singh	On left leg

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>
1	Kapa	Accused Jagga Singh	Near right eye
2	Kapa	Accused Prem Singh	On left side of neck
3	Kapa (reverse side)	Accused Happy	On left shoulder
4	Kirpan	Accused Sonu	On right hand (kuchh)
5	Wooden log	Unknown accused	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

<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 Prem Singh</i>	<i>On left knee and outer area</i>
<i>2</i>	<i>Kapa</i>	<i>Accused Kamal</i>	<i>On left arm bicep</i>

NAME OF INJURED:CHHINDA SINGH SON OF PRITAM SINGH
NUMBER OF INJURIES :5

<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>Dang (stick)</i>	<i>Unknown accused</i>	<i>On right knee</i>
<i>2</i>	<i>Dang (stick)</i>	<i>Accused Baljinder Singh</i>	<i>On left knee</i>
<i>3</i>	<i>Kapa (reverse side)</i>	<i>Accused Sukhchain Singh</i>	<i>On left elbow</i>
<i>4</i>	<i>Dang (stick)</i>	<i>Accused Baljinder Singh</i>	<i>On ring finger</i>
<i>5</i>	<i>Kapa</i>	<i>Accused Happy</i>	<i>On back</i>

NAME OF INJURED:SAROJ RANI
NUMBER OF INJURIES :1

<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>Dang (stick)</i>	<i>Accused Baljinder Singh</i>	<i>On left arm</i>

11. One of the injured persons namely, Paramjit Singh, while undergoing treatment, expired on 24.04.2022, who (as per the status report) is stated to have suffered four injuries, out of which, one injury was on the left side of his head; one was on the left thigh; other one was on the shoulder

and fourth one was on his left leg. However, none of the said injuries is attributed to the petitioner.

12. As per the status report, although the postmortem of deceased Paramjit Singh was conducted vide Post Mortem Report No. PMR/12/2022/GS dated 24.04.2022. However, it is stated therein that the opinion regarding cause of death will be given by the doctors after the receipt of Histopathology examination report from the concerned department, which is still awaited. On the other hand, as per the petitioner, deceased Paramjit Singh, expired due to cardiac arrest.

13. In the afore-mentioned circumstances, since the petitioner has not been attributed any injury to deceased Paramit Singh; accordingly, whether the offence under Section 302 IPC would be attracted towards the petitioner, shall be a subject matter of trial.

14. Be that as it may, a perusal of the custody certificate shows that the petitioner has been in custody for 11 months and 04 days (as on 22.04.2023) and there is no other case pending 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 some time to conclude.

15. Keeping in view the afore-mentioned 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.

16. However, before release, the concerned Station House Officer be informed and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency

of the case and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would furnish his telephone number to the concerned Station House Officer and would keep his mobile location on. Petitioner shall appear before the police station concerned on first Monday of every month till the conclusion of trial in this case and every time inform in writing that he is not involved in any other crime other than the case(s) mentioned in the present order.

17. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs. 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 absence of the petitioner from trial without sufficient cause.

18. 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.

19. The petition is accordingly disposed of.

June 2nd, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No