217 (3 cases)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. **CRM-M-50935-2022**

Desa Singh

... Petitioner

Versus

State of Punjab **.. Respondent**

2. **CRM-M-50960-2022**

Harsimranjit Singh @ Happy

... Petitioner

Versus

State of Punjab **.. Respondent**

3. **CRM-M-9849-2023**

Gurbhinder Singh

... Petitioner

Versus

State of Punjab **.. Respondent**

Date of Decision:-14.09.2023

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Sunny Saggar, Advocate
for the petitioner in **CRM-M-50935-2022** and
CRM-M-50960-2022.

Mr.R.S. Sidhu, Advocate
for the petitioner in **CRM-M-9849-2023**

Mr.A.P.S. Tung, DAG, Punjab.

****

BRIJ MOHAN
2023.09.15 17:18
I attest to the accuracy and
authenticity of this order/judgment,
HIgh Court, Chandigarh

217 (3 cases)

SUVIR SEHGAL, J. (ORAL)

1. This order shall dispose of **CRM-M-50935-2022** filed by petitioner Desa Singh, **CRM-M-50960-2022** filed by petitioner Harsimranjit Singh @ Happy and **CRM-M-9849-2023** filed by petitioner Gurbhinder Singh, as all the three petitioners have been named as accused in the same FIR and have approached this Court by way of separate petitions seeking grant of regular bail in:

FIR No.	Dated	Police Station	Sections
71	28.05.2021	Shirhali, District Tarn Taran	307, 506, 148, 149 IPC, Section 302, 212, 323, 452 IPC were added later on.

2. In brief, factual matrix leading to the lodging of the FIR is that on 27.05.2021 at 9:30 AM complainant, alongwith his younger brother Kuldeep Singh, aged about 30 years, was returning to his house on a motorcycle, when they were attacked. Gurjant Singh and Guwinder Singh both armed with a *Dang*, Rashpal Singh armed with 12 DBBL gun, Angrej Singh, Manjit Singh armed with a *Dang*, Jaswinder Singh with a *Kirpan*, Daler Singh, Sukhchain Singh, Harsimran Singh, Desa Singh, Sawinder Singh, Sukhdev Singh, Gurwinder Singh and Gurpreet Singh, all armed with *Dang* were waiting from them. Rashpal Singh raised a *Lalkara* to catch hold of Kuldeep Singh and to teach him a lesson for stealing electricity wires.

BRIJ MOHAN
2023.09.15 17:18
I attest to the accuracy and
authenticity of this order/judgment,
HIgh Court, Chandigarh

Gurwinder Singh, Gurjant Singh, Angrej Singh, Manjit Singh and Daler Singh started hitting with a *dang* on the head of Kuldeep Singh, who fell down. As the complainant came forward to rescue Kuldeep Singh, Sukhchain Singh and Sukhdev Singh hit him with a *dang*. Rashpal Singh hit the DBBL rifle on the neck of Kuldeep Singh and Jaswinder Singh kicked Kuldeep Singh. Satwinder Singh also hit the complainant and he fell down. Other assailants hit complainant's brother, whereas Gurwinder Singh and Gurpreet Singh dragged the complainant and his brother. Due to the injuries inflicted, Kuldeep Singh became unconscious and upon the complainant raising an alarm, all the assailants fled with their respective weapons. Kuldeep Singh was immediately taken to a hospital. However, during treatment, he succumbed to his injuries, whereupon Section 302 of the IPC was added in the FIR vide DDR No.21 dated 10.06.2021.

3. Counsel representing the petitioners contends that although it has been alleged that the petitioners were armed with wooden sticks but they have not been accused of inflicting the fatal injuries. Rather, it has been specifically submitted that insofar as petitioners Desa Singh and Harsimranjit Singh @ Happy are concerned, they are accused of hitting the deceased in the stomach, whereas petitioner Gurbhinder Singh is accused of having given a straight blow. By referring to the medical record, Annexure P2, it has been submitted that the allegations levelled against the petitioners are false as there is no injury on the body of the deceased except on his head,

BRIJ MOHAN
2023.09.15 17:18
I attest to the accuracy and
authenticity of this order/judgment,
HIgh Court, Chandigarh

neck and ear.

4. It has been submitted that petitioner Desa Singh is 70 years of age, whereas the other two petitioners Harsimranjit Singh @ Happy and Gurbhinder Singh are young men and are in custody since 30.12.2021, 04.09.2021 and 11.12.2021, respectively. Counsel asserts that they are no longer required for custodial interrogation as final report qua them has been submitted.

5. Per contra, learned State counsel upon instructions from ASI Gurpreet Singh has opposed the petitions and has submitted that the petitioners along with 13 co-accused have attacked deceased Kuldeep and his brother and inflicted serious injuries on them, resulting in death of one of them. He submits that the allegations against the petitioners, who formed an unlawful assembly, are grave and they do not deserve the concession of bail. As per his instructions, charge has been framed and out of 26 prosecution witnesses, none has been examined.

6. I have heard counsel for the parties, perused the record as well as the report received from the trial Court.

7. As per the postmortem report of the deceased, the cause of death, in the opinion of the Board of Doctor, is as under:

> *"due to head injury resulting in damage to the brain parenchyma, thus affecting the functioning of vital organ brain, alongwith septicemic shock, which is sufficient to cause death in an ordinary*

BRIJ MOHAN
2023.09.15 17:18
I attest to the accuracy and
authenticity of this order/judgment,
HIgh Court, Chandigarh

course of nature."

8. Noticing the injuries attributed to the petitioners, role ascribed to them, their respective ages, nascent stage of trial with a remote possibility of its early conclusion, this Court is inclined to accept the prayer made in the petitions.

9. Without adverting to the merits or demerits of the arguments addressed, petitions are allowed. Petitioners are ordered to be released on bail, on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

10. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

14.09.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No

BRIJ MOHAN
2023.09.15 17:18
I attest to the accuracy and
authenticity of this order/judgment,
HIgh Court, Chandigarh