

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-55796-2022

Date of Decision:-30.01.2023

Heera Singh.

.....**Petitioner.**

Versus

State of Punjab.

.....**Respondents.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ranjeet K. Jaswal, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.235 dated 27.12.2019 under Sections 326, 325, 148, 149 IPC (Section 307 IP added later on) registered at Police Station Chattiwind, District Amritsar.

2. The present FIR came to be registered at the instance of Harjinder Singh who stated that on 31.10.2019 when he came out of his house for going to Amritsar then in the street, from the back his brother Heera Singh (petitioner) armed with doubled edged weapon (*Khanda*) stopped him. His brother Balwinder Singh @ Billa was armed with *Kirpan*, Lovepreet Singh @ Labha was armed with *Datar*, Mangal Singh @ Mangu was armed with *Datar*, Bobby was armed with *Kirpan*, Tar Singh Mehra was armed with *Kirpan*, Malkiat Singh was armed with *Datar*, Veer Kaur @ Babbu wife of Heera Singh was empty handed and Nisha wife of Mangal Singh @ Mangu was empty handed came towards him. Heera Singh gave him a *khanda* blow on his neck and his brother Balwinder Singh @ Billa gave him a *kirpan* blow on his head on the back side. His nephew

Lovepreet Singh @ Labha gave a *datar* blow on his left wrist. When he tried to run away, in the meantime, Labha gave him a *datar* blow striking the palm of his left hand. Then Bobby and Mangal Singh @ Mangu gave a blow of *kirpan* and *datar* respectively on his right arm. He fell down. Then Tar Singh gave him a *kirpan* blow on his left leg below the knee. Veer Kaur and Nisha raised a *lalkara*. Thereafter Malkiat Singh, Heera Singh and Balwinder Singh with their respective weapons gave 04 blows to him striking his nose, neck and other parts of the body. On his screamings his wife Raj Kaur came to the spot and hearing her noise the accused fled away. Based on the aforementioned allegations, the present FIR came to be registered.

3. The Counsel for the petitioner contends that there is unexplained delay of 57 days in registration of the FIR. The occurrence took place on 31.10.2019 but the present FIR came to be registered on 27.12.2019. The injury attributed to the petitioner is simple in nature. Since the dispute was between the family members, a compromise was arrived at between them and a compromise deed and an affidavit are attached as Annexure P-3 & P-4. A petition for quashing of the FIR on the basis of compromise was also filed. However, as the complainant had passed away, the petition was ordered to be dismissed as withdrawn with liberty to file a fresh petition after entering into compromise with the legal heirs of the complainant-Harjinder Singh. Now a compromise has also been arrived at with Rajwinder Kaur wife of the complainant (Annexure P-7). He contends that the petitioner was in custody since 9.7.2022 and the dispute was between the family members, the petitioner was entitled to the grant of bail as none of the 16 prosecution witnesses had been examined and the petitioner was a first time offender.

4. The Counsel for the State on the other hand contends that the petitioner is one of the main accused. The allegations levelled in the FIR and the manner of the attack did not entitle the petitioner to the grant of bail. He however, does not dispute the factum of compromise having been arrived at between the parties as also the period of incarceration of the petitioner.

5. I have heard learned Counsel for the parties.

6. Admittedly, the dispute is between close family members.

Initially a compromise was effected between the complainant and the accused. As he(complainant) had died a subsequent compromise came to be effected between the wife of the complainant Rajwinder Kaur and the accused. The petitioner is in custody since 09.07.2022 and is a first time offender. As none of the prosecution witnesses have been examined so far, the Trial of the present case is not likely to be concluded anytime soon and as such, the further incarceration of the petitioner is not required.

7. Thus, without commenting on the merits of the case, the petitioner-**Heera Singh** son of Sh. Sulakhan Singh is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 30, 2023

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>