

214

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

CRM-M-54198-2023
Date of decision : 20.12.2023

SIKANDER SINGH

....Petitioner

Versus

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rajesh Bhatheja, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.167 dated 30.07.2023 registered for the offences punishable under Sections 307, 325, 323, 341, 427, 148, 149 of the Indian Penal Code, at Police Station City Moga, District Moga.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. Reliance is being placed upon order dated 13.10.2023 passed in CRM-M No.51075 of 2023 whereby co-accused(s) Amritpal Singh @ Pala and another have been granted bail observing as under :

“1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.167 dated 30.07.2023 registered under Sections 307/325/323/341/427/

148/149 IPC at Police Station City Moga, District Moga.

2 FIR was registered on the statement of Avtar Singh S/o Nirbhey Singh, who alleged as under :-

“Statement of Avtar Singh son of Nirbhey Singh son of Surjit Singh, resident of Maur Nau Abad, aged about 26/27 years, mobile No.75298-24591, P.S. Smalsar. Stated that I am resident of above said address and I do work with Bobby Agent, r/o Moga. We are three brothers. I am the eldest one, younger to me is Kamalpreet Singh and youngest is Varinder Singh. Yesterday on 29.07.2023 at about 07:30 PM, my brother Varinder Singh alongwith Sukhpal Singh son of Raj Singh, Parminder Singh son of Gamdoor Singh, residents of Maur Nau Abad had gone to Village Indergarh Jhiri on the Hero Deluxe motorcycle No.PB-29-0192 of Parminder Singh for paying obeisance on the occasion of 11th. On 30.07.2023 at about 03:00 AM, I got phone call of my brother Varinder Singh that when they were returning back to village by paying obeisance and when they reached from Lohara Chowk to near Mandir, Dharamkot then 6 unknown boys, who were on motorcycle and Activa scooter and they were carrying Kirpans. They caused us injuries with intention to commit snatching. After said occurrence, I made phone calls to my friends. Upon which, Ranjodh Singh @ Kamaljit Singh s/o Somraj, Pavittar Singh s/o Pritpal Singh, r/o Khote and Kamalpreet Singh, my brother and Harjinder Singh s/o Kulwant Singh, Balwinder Singh s/o Surjit Singh, residents of Maur Nau Abaad came up at the spot in one Maruti car No.CH-01-AM-6039 and one Swift Dzire car No.PB-11- CP-9823. When we reached near Bharat Petrol Pump, near Lohara Chowk, Moga, we met Varinder Singh, Parminder Singh and Sukhpal Singh, who had suffered injuries and they were sent to Moga City for bandages alongwith Kamalpreet Singh. Harjinder Singh and Balwinder Singh. I, Kamaljit Singh, Ranjodh Singh, Pavittar Singh in Maruti car were going to place of occurrence ahead of Lohara Chowk then at about 05:00 AM, when after seeing the spot of occurrence, we were returning back to hospital. Landeke then 10/12 boys came from the side of Village Landeke side on 5/6 motorcycles and one black colour Activa. I asked my associates that it seems that they are same boys who did fighting with Varinder Singh etc. They followed us on motorcycles and due to fear, we brought and parked our Maruti car at main chowk, Moga. Said 10/12 boys followed us to the chowk, who were carrying Dang- Sota. They encircled us and attacked us with intention to kill. We came to know their names later, who are Navjot Singh @ Navi s/o Sikander Singh, Amritpal Singh @ Pala s/o Sikander Singh s/o Paramjit Singh, Jagsir Singh s/o Billa Singh, Jashan Singh, Sukhchain Singh sons of Krishan Singh, Rajvir Singh @ Baldev Singh, Lichi @ Jassa @ Tony s/o Resham Singh and Labh Singh son of not known, residents of Landeke

and 2/3 unknown persons. Navjot Singh @ Navi who was carrying Sota caused beatings to Pavittar Singh with intention to kill. Then Navjot Singh @ Navi gave Sota blow on my head with intention to kill, which hit on my on my head above the left ear. Then Sukhchain Singh @ Bath gave Sota blow on Pavittar Singh, which hit on his head and on right knee. Then Amritpal Singh @Pala gave Sofa blow on me, which hit on my head above the right side of my ear. Then Sukhchain Singh @ Bath gave Sota blow on me with intention to kill me, which hit on backside of my head. Then Jashan Singh gave Dang blow on Ranjodh Singh, which hit on the right calf muscle, right knee and on back of Ranjodh Singh. Then Rajvir Singh @ Baldev Singh gave Dang blow on the head of Kamaljit Singh. Then said persons caused us injuries with kick blows when we were lying down. Many people gathered at main chowk. We all raised alarm 'Marta - Marta' and people also raised hue and cry. At this, all said accused fled away from the spot alongwith their respective weapons on their vehicles and by leaving, they also caused damage to our Maruti car. If public did not raise hue and cry at the spot, then might be above said accused killed us today. Grudge behind the occurrence is that unknown persons caused injuries to my brother Varinder Singh and his friends in the morning with intention to commit snatching and we were searching about said unknown persons and when we were having suspicion on them, they encircled us and caused us injuries with intention to kill us and they also caused damage to our Maruti car. Our associates got us admitted at Civil Hospital, Moga for treatment, where we are under treatment. Kindly initiate legal proceeding against aforesaid accused persons.”

3 Custody certificate has been filed. The same is taken on record.

4 Learned counsel for the petitioners submits that it was a case of brawl wherein both the parties got FIR registered against each other. Surprisingly, in the FIR registered against the petitioners the complainant admits that even the names of the offenders were not known to them yet specific roles were attributed. He further submits that even role attributed to the petitioners is taken to be on its face value, the petitioners have been attributed injuries, which are simple in nature. The petitioners are in custody since 30.07.2023. The petitioners have clean antecedents.

5 Learned State counsel, on instructions from Investigating Officer does not oppose the aforementioned fact.

6 I have heard learned counsel for the parties and have gone through the records of the case.

7 In view of the aforesaid facts and circumstances, without commenting on the merits of the case and considering the incarceration suffered by the petitioners, the present petition is allowed. The petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.”

4. Counsel for the petitioner further submits that the petitioner is behind bars for more than 4 months and 19 days. The investigation already stands concluded and Challan stands presented. Thus, there can't be any apprehension that the petitioner shall tamper with the evidence.

5. State Counsel is not in posititon to dispute the factual assertions made by counsel for the petitioner based on record.

6. I have heard counsel for the parties and have gone through records of the case.

7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, granting parity viz-a-viz Amritpal Singh @ Pala, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

December 20, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No