

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

CRM-M-57944-2022 (O&M)

Date of decision: 25.04.2023

RAVINDER SINGH @ JOBAN

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr.Vipin Mahajan, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARSH BUNGER, J.

Petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure (*in short "Cr.P.C."*) for grant of regular bail in case FIR No.20 dated 21.03.2020, registered under Sections 302, 323, 452, 201, 148 and 149 read with Section 34 of the Indian Penal Code (charges framed under Sections 450, 302, 323 and 201 IPC) at Police Station RangarNangal, Police District Batala, District Gurdaspur, Punjab.

2. Upon issuance of notice of motion in this case, status report by way of an affidavit of Sh. Gurinderbir Singh, PPS, Deputy Superintendent of Police, Sub Division Sri Hargobindpur, Police District Batala, on behalf of respondent-State of Punjab, has been filed, which is already on record.

3. Custody certificate dated 21.03.2023 of the petitioner has been filed by learned State Counsel in the Court today, which is taken on record, subject to all just exceptions.

4. Briefly, the above-said case FIR was registered on the statement of one Sandeep Singh son of Sukhraj Singh, who stated that he is an agriculturist by profession and was married about four years ago with one Kanwaljit Kaur daughter of Amrik Singh resident of Babbowal, Police Station KathuNangaland out of the said wedlock, he has two daughters. It is stated in the complaint that he and his father, both are habitual drinkers and they consume liquor daily and on this account, his brother-in-law Harminder Singh son of Amrik Singh, used to get annoyed and he used to stop them from consuming liquor. It is alleged that Harminder Singh (brother-in-law of the complainant) used to beat the complainant as well as his father but he and his father were helpless because of this habit and could not resist from consuming liquor. It is stated in the complaint that on 20.03.2020, at about 9:00 p.m., the complainant and his father Sukhraj Singh along with his mother Paramjit Kaur and his wife Kanwaljit Kaur, were present in the house and their outer gate was open and the light bulb was also glowing in the courtyard, when his brother-in-law Harminder Singh, armed with handle of spade along with three-four un-known persons, which he stated that he could identify upon seeing them; armed with *hockeys*, entered their house. Thereafter, his brother-in-law raised *lalkara* to catch hold of them (complainant and his father) and teach them a lesson for consuming liquor, whereupon Harminder Singh gave a spade blow to his father and in order to save himself, he raised his left hand; accordingly, the blow hit on his left wrist. It is further alleged that the accomplices of his brother-in-law, who hit his father and made him to fall on the ground and when the complainant came forward to save his father then he was also pushed

on the ground and were given beatings with their respective weapons; resultantly, the complainant suffered injuries on the eye-brow of his left eye and waist, whereas, his father sustained injuries on his left eye and on right and left legs and also on his backside. It is further stated that when the assailants were giving beatings, then the complainant's mother and his wife ran away out of fear and all of them did not return back to the house due to fear. It is also stated that on 21.03.2020, at about 12:00 noon, the complainant along with his mother reached back home and then they saw that the father of the complainant was lying in the courtyard and he was dead. It is alleged by the complainant that his father died due to the beatings given by his brother-in-law and his friends and the reason for this is stated to be that his brother-in-law used to stop them from consuming liquor. Accordingly, the above-said case FIR was registered.

5. Learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated in the present case. He submitted that the petitioner was not named in the FIR; however, he was nominated as an accused on the basis of disclosure statement made by accused—Harmander Singh vide GD No.20 dated 04.04.2020. Learned counsel for the petitioner has referred to the disclosure statement (Annexure P-2), which reads as under :-

“ that on 20.03.2020 around 7/7:30 pm., I and my maternal aunt's son Resham Singh s/o Baldev Singh caste Jatt r/o Babowal were present at Gurudwara Sahib of our village where in Gurudwara Sahib my uncle Baldev Singh had organized Akhand Path for the well being of his grandson. My sister Kanwaljit Kaur w/o Sandeep Singh r/o Jahadpur called me and told

that her husband Sandeep Singh and her father-in-law Sukhraj Singh today again after consuming liquor are uttering non-sense to her. On which I told to my cousin brother Resham Singh son of Baldev Singh caste Jatt r/o Babowal who called his friends. One of them was Joban r/o Tahli Sahib who was having Zen Car and two more boys whom my cousin brother knew came there and we all 5 people went to the house of my sister Kanwaljit Kaur in Village Jahadpur in the car. We were having spade handle and hockeys in the car. When we reached my sister's house we saw that in the house my sister's husband Sandeep Singh and his father Sukhraj Singh were in drunkard condition and were uttering bad words. I along with Resham Singh both entered Sandeep Singh's house. Remaining three friends were outside the house sitting in the car. I and Resham Singh gave injuries to Sandeep Singh's father Sukhraj Singh. I with handle of spade gave injuries on the head of Sukhraj Singh which he fell on the ground and to save him Sandeep Singh came forward and then I and Resham Singh gave injuries to Sandeep Singh also and Sandeep Singh ran away from spot and his father Sukhraj Singh fell on the ground and became unconscious. Then my sister and her mother in law also ran away from house. I have hidden my weapon under the husk kept in one corner of the cattle shed in my house about which only I know and I can get the same recovered by demarcation."

6. Learned counsel for the petitioner while referring to the said disclosure statement submitted that no role has been attributed to the present petitioner; rather the only statement given was that the petitioner had a 'Zen car' and Harminder Singh along with his cousin Resham Singh, the present petitioner and two other persons, went to the house of

the complainant in his car and only Harminder Singh and Resham Singh, had gone inside the house, whereas, the remaining three persons were outside the house, sitting in the car.

7. Learned counsel for the petitioner submitted that the petitioner along with one Resham Singh were declared as proclaimed offender vide order dated 17.11.2020 passed by learned Sub Divisional Judicial Magistrate, Batala and the petitioner was arrested on 01.12.2021. Learned counsel has further submitted that the trial against main accused Harminder Singh, proceeded; however, the complainant did not support the prosecution case. Learned counsel has referred to the statement of complainant recorded during trial, the relevant extract of which reads as under :-

“ It is wrong to suggest that on 20.03.2020 at about 9:00 pm in the area of Village Jahadpur, PS Rangar Nangal accused person in Court Harminder Singh alongwith his co-accused Resham Singh son of Baldev Singh resident of Babowal and Joban @ Ravinder Singh son of Avtar Singh resident of Tahli Sahib, PS Mattewal (both PO) were committed house trespass had committed the murder of my father Sukhraj Singh son of Mukhtar Singh by causing injuries to them with spade handle and hockeys or that I had witness the whole occurrence or that they had also caused injuries to me with spade handle and hockey. It is wrong to suggest that I am resiling from my earlier statement made to the police or being won over by the accused present in court or to save the accused as he is my brother-in-law.”

8. Learned counsel for the petitioner contended that main accused Harminder Singh was acquitted of the charges framed against

him vide judgment dated 28.01.2022 passed by learned Additional Sessions Judge, Gurdaspur, by observing as under :-

“18. In the light of what is discussed above and without elaborating further, it is evident that the prosecution has not been able to connect the accused with the alleged offence, at least, beyond shadow of reasonable doubt, for which, accused has been charge sheeted. Consequently, by giving benefit of doubt, the accused is acquitted of the charges levelled against him. The accused stands discharged from bail bonds/surety bonds. Case property, if any, be dealt with as per rules, after expiry of period of appeal if any. File be consigned to the record room. File shall be taken up again as and when accused persons namely Resham Singh and Joban @ Ravinder Singh who were declared as proclaimed offenders vide order dated 17.11.2020 shall be arrested or surrendered before the court.”

9. Learned counsel for the petitioner submitted that the petitioner is innocent and even considering the entire material available on the record, no offence is made out against him and neither any role nor any injury has been attributed to the petitioner; either to the complainant or his father. He submits that there is no incriminating material against the petitioner and even otherwise, the main accused already stands acquitted. It is submitted that the petitioner has been in custody since 01.12.2021; the challan has already been presented against him; charge has been framed against the petitioner and the trial is likely to take long time and no useful purpose would be served by keeping him in custody for indefinite period. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may

be imposed by this Court or by the trial Court; accordingly, prayer for grant of regular bail is made.

10. Per contra, learned State counsel has opposed the present petition for grant of regular bail to the petitioner on the ground of seriousness and gravity of offence inasmuch as that the case is registered under Section 302 of the Indian Penal Code along with other relevant sections. It is further submitted that the petitioner was declared as a proclaimed offender and he stayed away from the trial; hence, he is not entitled to the concession of regular bail. However, learned State counsel has not disputed the fact that main accused-Harinder Singh already stands acquitted. It is also not disputed that the challan against the present petitioner already stands submitted and charge has also been framed. It is further not disputed that the petitioner has been in custody since 01.12.2021.

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

12. In this case, concededly the petitioner was not named in the FIR; however, he was nominated as an accused subsequently on the basis of disclosure statement of main accused-Harinder Singh, vide G.D. No.20 dated 04.04.2020. The petitioner was declared as a proclaimed offender vide order dated 17.11.2020 (Annexure P-3) passed by learned Sub Divisional Judicial Magistrate, Batala and he was arrested on 01.12.2021 and since then, he has been in custody.

13. From the perusal of the paper book, it appears that the only allegation against the petitioner is that he along with other co-accused

had gone to the house of the complainant in his 'ZEN car' and even as per the disclosure statement of Harminder Singh, no overt act has been attributed to the petitioner. The petitioner is stated to be sitting in the car, outside the house. Concededly, the main accused-Harminder Singh already stands acquitted vide judgment dated 28.01.2022 (Annexure P-5) passed by learned Additional Sessions Judge, Gurdaspur.

14. So far as the trial against the petitioner is concerned, admittedly the challan already stands presented and charge has been framed against the petitioner. The petitioner has been in custody for the last more than 01 year 03 months and 18 days as on 21.03.2023; the trial is likely to take some time to conclude.

15. Keeping in view the afore-mentioned facts and circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing **heavy bail/surety bonds** to the satisfaction of the Illaqa Magistrate / Duty Magistrate / trial Court 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 would also furnish an undertaking to the effect that he will not indulge in any illegal activity. Petitioner shall appear before the police station concerned on every alternate Monday 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 here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

19. The petition is accordingly disposed of.

April 25th, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No