

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M- 60981-2022 (O & M)****Date of decision: 10.01.2023**

Gaurav Singh

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sunil Sihag, Advocate, for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No. 212 dated 05.06.2021 under Sections 323, 325, 307 and 506 IPC registered at Police Station Ambala Cantt., District Ambala.

2. The present FIR came to be registered at the instance of Harcharan Singh, who stated that he was a Lab Attendant in Kendriya Vidhyalaya. On the date of the occurrence, he was present at his house. His neighbour Balraj who is a retired police officer runs a gym near his house and had made a hotel above it. He had also kept tenants in the premises and himself resided on the upper floor alongwith his family. At about 9.00/9.30 a.m., when he (complainant) came out of the house then the son of Balraj was dropping an iron pipe from the top of the house. When he (complainant) asked him to drop them slowly as two pipes had fallen near the scooters, he did not listen. So, he (complainant) went up for breakfast.

After about 15/20 minutes, his (complainant's) elder brother Hardeep Singh

came near the Googa Madi at Mahesh Nagar, Ambala Cantt. Balraj's son

Gaurav (petitioner) came down and threatened Hardeep. When he (complainant) opened his window, Gaurav threw a slipper at him. Then, he came down. Immediately, Gaurav-petitioner gave two blows with an iron pipe on the head of his brother-Hardeep. As he came closer, Gaurav hit on the right side of the head and left arm with iron pipe. Because of this injury, his elder brother fell down and due to his (complainant's) injuries, everything got blackened out in front of his eyes. Therefore, he alongwith his brother were taken to Sai Hospital, after which, both of them were referred to Healing Touch Hospital where his brother was admitted in the ICU.

3. The learned counsel for the petitioner contends that there is a delay of more than 12 hours in the registration of the FIR despite the fact that the complainant was fit to make a statement. In fact, the complainant-party has caused injuries to the petitioner. Injured Hardeep Singh had suffered only one injury on his head and the prosecution had given a coloured version without explaining/mentioning the injuries on the petitioner. No offence was made out under Section 307 IPC as no fire-arm had been used. The MLR of the petitioner, Gaurav son of Balraj Singh (Annexure P-3) would show a laceration of the right parietal region and the said fact does not find mention in the report under Section 173 Cr.P.C. submitted against the accused. In fact, the father of the petitioner Balraj Singh had gone to the police station on 06.06.2021 alongwith the MLR of the petitioner, pursuant to which, a cross-version of the present occurrence came to be registered. He contends that initially the injured Hardeep Singh was taken to a private hospital on 05.06.2021 and was discharged on 29.06.2021 in a stable condition. Thereafter, he was admitted in the hospital

condition. The discharge summary (Annexure P-8) would show that the condition of the patient was conscious, stable and oriented. In fact, the injured Hardeep Singh was a diabetic and suspected case of chronic heart disease. Taking the prosecution case to be true, no offence under Section 307 is made out as it was a case of self-defence at best. He submits that since the petitioner was in custody since 07.06.2021, and the trial had not made any progress, the petitioner was entitled to the grant of regular bail. Reliance is placed on the judgments passed in the cases of “Vishnu versus State of Rajasthan and another, 2017 AIR (Supreme Court) 1611, Shaganpreet Singh versus State of Punjab (CRM-M-42580-2016 decided on 20.01.2017), Vijay @ Labhu versus State of U.T., Chandigarh (CRM-M-20385-2020 decided on 16.11.2020), Ajay Vishnu Bhoir and others versus The State of Maharashtra , 2022(3) Bom.C.R. (Cri.)164, Surinder Singh versus State of Haryana (CRM-M-14060-2020 decided on 24.06.2020), Bikramjit Singh versus State of Punjab (CRM-M-21867-2020 decided on 09.12.2021), Harmanpreet Singh @ Hamma versus State of Punjab (CRM-M-19455-2021 decided on 25.05.2021), Nitin Verma versus State of Punjab (CRM-M-20920-2021 decided on 10.06.2021), Jasvinder Singh @ Titu versus State of Raj. (S.B. CrI. 3rd Bail Application No.1886 of 2016 decided on 23.04.2016) and Saheb Sah versus The State of Bihar (Criminal Miscellaneous No.42465 of 2021 (arising out of P.S. Case No.203 year-2020 decided on 05.04.2022))”.

4. The learned counsel for the State, on the other hand, contends that this is a second bail application of the petitioner. During the pendency of the first bail application, a Medical Board had been constituted and the report based on the medical examination by the Medical Board dated

5. The learned counsel for the complainant has also vehemently opposed the bail application stating that Hardeep Singh was bed-ridden and dependent for bowel and bladder care. He was having a hole in the Trachea (Tracheostomy) for airway. He could not feed himself and was being given food by caretakers through a feeding tube. The manner in which the occurrence had taken place coupled with the nature of injuries suffered by Hardeep Singh did not entitle the petitioner for the grant of bail.

6. I have heard the learned counsel for the parties.

7. In the present case, when the first bail application had been filed, this Court had ordered the examination of Hardeep Singh by a Medical Board. The same was constituted and the report of the PGIMER is reproduced hereinbelow:-

“The Medical Board examined the patient and found the patient as unconscious with Glasgow Coma Scale (GCS) score of E4VtM3. Patient had contractures of both upper and lower limbs and is completely bed ridden. He is dependent for bowel and bladder care in the present status. He is having a hole in Trachea (Tracheostomy) for airway. He cannot feed himself and is being given food by caretakers through feeding tube.

Patient is not in the senses and does not understand any commands or instructions. He does not recognise any of his relatives. ”

The board evaluated all available imagine films also, which were brought here, including injury scans. CT scans dated 05.06.2021, 06.06.2021, 14.06.2021 and MRI scan dated 23.06.2021 were seen. All imaging films co-related to the patient’s clinical status.

Patient has 1x1 cm scar over dorsal aspect of 1st web space which has healed with secondary intention.

Henceforth, Patient Hardeep Singh is unfit to follow his daily pursuits and is not conscious for anything”.

8. A perusal of the aforementioned report would reveal that Hardeep Singh is completely bed-ridden. The manner in which the occurrence has taken place as also the injuries suffered by Hardeep Singh and his present condition do not entitle the petitioner to the grant of bail. The judgments referred to by the learned counsel for the petitioner are distinguishable on facts. In none of the said cases, had the injured suffered permanent impairment.

9. In view of the above, I find no merit in the present petition. The same is hereby dismissed.

However, keeping in view the fact that the petitioner is in custody since 07.06.2021, the Trial Court is directed to conclude the Trial expeditiously not later than 06 months from the next date fixed before it.

(JASJIT SINGH BEDI)
JUDGE

January 10, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No