

In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-5025-2024 (O&M)
Date of Decision:-16.2.2024

Partap Singh ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. K.P.S. Virk, Advocate for the petitioner.

Mr. Munish Sharma, DAG, Haryana.

FIR No.	Dated	Police Station	Section/s
307	2.12.2022	Nigdhu, District Karnal	148, 149, 323, 452, 325, 307 and 506 of Indian Penal Code

GURVINDER SINGH GILL, J. (Oral)

CRM-7275-2024

In view of the reasons mentioned in the application, the same is allowed and statements of the injured recorded under Section 161 Cr.P.C. annexed with the application is taken on record as Annexure P-4 subject to all just exceptions.

CRM-M-5025-2024 (Main Case)

1. The petitioner seeks grant of anticipatory bail in respect of the aforementioned FIR.

2. The FIR was lodged at the instance of Gurvinder Singh (father of injured Lovepreet Singh), wherein it is alleged that on 2.12.2022, when complainant's son Lovepreet Singh and complainant's wife Jaspreet Kaur were present alone in their home, then Partap Singh (petitioner), Harshdeep, Daman, Jasbir Singh, Jaspreet Singh, Sarb, Suman accompanied by another 4 persons entered into their house and attacked complainant's son with sticks. When the complainant's wife tried to intervene, the assailants pushed her. It is alleged that complainant's son sustained several injuries and fainted at the spot. The assailants are also alleged to have fired several shots at the house of the complainant. The injured - Lovepreet Singh was medically examined and was found to have sustained two lacerated wounds on his head. One fracture was also found to have been sustained and consequently offence under Section 307 IPC was also added later on. During the course of investigation, the statement of Lovepreet Singh was also recorded under Section 161 Cr.P.C. on 15.12.2022 (Annexure P-4). A perusal of the said statement would indicate that he has also named all the 7 assailants. Further he attributed injuries specifically to co-accused Jasbir Singh Fauji. The relevant extract from the said statement under Section 161 Cr.P.C. of Lovepreet Singh is reproduced hereinunder:

“They entered the house and as soon as they came, Jasbir Singh Fauji was the first to hit me twice on the head with an iron rod held by him in his hand and everyone else started beating me. That at that time my mother Jaspreet Kaur and aunt Kulvinder Kaur were present in the house and both of them started trying to free me from the attackers, then they all pushed and punched my aunt and mother. Then we raised noise of Maar Diya Maar Diya at which our neighbors Jagir Singh, Harvinder Singh and

Gulab Singh also came to the spot and got me freed from the attackers.”

3. Out of the aforesaid 7 accused, two accused namely Jaspreet Singh and Sarav were found to be innocent. Partap Singh (petitioner) and Jasbir @ Fauji were not arrested. Consequently challan was presented against 3 co-accused namely Harshdeep, Damanjot and Thamandeep, who were tried and were acquitted vide judgment dated 27.7.2023 (Annexure P-2) passed by learned Additional Sessions Judge, Karnal, mainly on account of the fact that the witnesses i.e. the complainant and his son had resiled. Subsequently Jasbir Singh has also been given a clean-chit by the police on 13.8.2023.
4. Reply by way of affidavit of Shri Veer Singh, HPS, Deputy Superintendent of Police, City Karnal has been filed by learned State counsel, which is taken on record.
5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that though he is named by the complainant Gurvinder Singh, but admittedly he is not an eye-witness and was never present at the spot. It has been submitted that when statement of the injured was recorded, although he named all the 7 assailants including the present petitioner but the only two injuries stated to have been inflicted by the accused are attributed to Jasbir Singh only, who has also been given a clean-chit subsequently by the police. It has been submitted that from the aforesaid facts particularly the factum of resiling of the eye-witnesses qua the remaining accused, who are also specifically named in the FIR and even giving a clean-chit to Jasbir Singh @ Fauji, who is the only accused, who is specifically attributed two injuries found on the person of the injured, the

falsity of the case is clearly established and under these circumstances, the petitioner deserves the concession of anticipatory bail.

6. Opposing the petition, learned State counsel submitted that the petitioner cannot derive any advantage from the factum of acquittal of the aforesaid 3 co-accused inasmuch the witnesses had categorically stated regarding the co-accused only and have not given a clean-chit to the present petitioner. Learned State counsel further submitted that the petitioner cannot even derive any advantage from the factum of the co-accused Jasbir @ Fauji having been given a clean-chit inasmuch as the eye-witnesses shortly after the occurrence in question i.e. on 24.12.2022 had furnished affidavits to the Investigating Officer, wherein they categorically mentioned that Jasbir Singh was not the assailant and that it is Partap Singh (petitioner), who had inflicted the injuries.
7. This Court has considered the rival submissions addressed before this Court.
8. While the petitioner indeed is named in the FIR, but no specific role is attributed to him. Further, it is also not in dispute that the complainant had not witnessed the occurrence. Still further, the injured has attributed the injuries only to the co-accused Jasbir Singh, who has since been given a clean-chit. Three of the co-accused namely Harashdeep, Damanjot and Thamandeep, who were tried, have been acquitted vide judgment dated 27.7.2023 (Annexure P-2) passed by learned Additional Sessions Judge, Karnal, as the witnesses including the complainant and the injured did not support the version of the prosecution. Under these circumstances, the credibility of the witnesses will indeed be debatable particularly when the witnesses have resiled and even the prime accused, who is alleged to have

inflicted injuries to the injured, has also been given a clean-chit during investigation.

9. The instant petition, as such, merits acceptance and is hereby accepted and it is ordered that the petitioner, in the event of his arrest, be released on bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
10. It is, however, made clear that the aforesaid observations have been recorded only for the purpose of disposal of this petition and shall not be treated to be a final expression as regards the guilt or innocence of the petitioner.

16.2.2024
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(Gurvinder Singh Gill)
Judge

Whether reasoned/speaking	Yes / No
Whether reportable	Yes / No