

220

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6391-2024
Date of decision: 02.04.2024

HARDEEP SINGHPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gaurav Datta, Advocate for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

Mr. G.S. Ghuman, Advocate for the complainant.

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.36 dated 22.04.2022 registered for the offences punishable under Sections 323, 452, 506, 34 of the Indian Penal Code, 1860 (Section 302 IPC added later on) at Police Station Khamanon, District Fatehgarh Sahib.

2. FIR was registered on the statement made by Amarjit Singh son of Ram Asra brother of deceased Prem Singh.

3. Counsel for the petitioner submits that two versions have come on record from the complainant. One as recorded in the FIR which reads as under:

“xxx that I am resident of the above said address and I am doing the work of the Raj Mistry (Mason), we are three brothers and 2 sisters, all of us are duly married, the age of my brother Prem Singh is approximately 62 years, which is my middle brother and then today on 21.04.2022 and today on 21.04.2022, the gathering had been assembled in the Gurdwara Bhagat Ravidas of our village by the government for giving the shed (for the animals) and then my brother Prem Singh had also joined this gathering and then Hardeep Singh son of Dalwara Singh the present Sarpanch of our village and the other more Panchayat Members of the village and the other respectable persons were present there on the spot and my house is also located just near this Gurdwara Sahib and then my brother Prem Singh presented this subject that the needy persons which required the Sheds, the sheds are not sanctioned to them in which I and my brother Prem Singh, are included, on putting this subject of the shed by my brother Prem Singh, becoming angry by Hardeep Singh Sarpanch, went from this Gurdwara Sahib and I also followed to my brother and went to the house of my brother and then it may be at around 10.30 AM, I and my brother Prem Singh, we were present at home and in the mean time, Jaspreet Singh son of Dalbara Singh armed with the Gandasi and Hardeep Singh Sarpanch armed with Danda (wooden stick) and Dalbara Singh son of Charan Singh and Paramjit Kaur wife of Dalbara Singh, Hardeep Singh was about the forcible blows of the wooden sticks on the pillars of the main gate of the house of my brother Prem Singh and was about to call the abuses very loudly to my brother Prem Singh, arriving at once, my brother Prem Singh opened the main gate of the house and Jaspreet Singh armed with Gandasi and Hardeep Singh armed with Danda and Dalbara Singh and Paramjit Kaur suddenly at once entered in the house of my brother Prem Singh and raising the alarm, Hardeep Singh Sarpanch said that today Prem Singh may not go dry "(SUKKA NA JAVE)" and then Jaspreet Singh attacked the assault with very force from the reverse side of his Gandasi on my brother Prem Singh which hit in his head and my brother Prem Singh fell down on the ground and due to inflicting the enough injury in the head, he became

senseless and unconscious and then much blood was oozing from the head of my brother Prem Singh and then I shouted the cries, "MARTA MARTA" and my son Lakhvir Singh and my elder brother Kehar Singh also arrived on the spot and then looking the gatherings of the people, all the above said persons, threatening to my brother Prem Singh to put him to death, all of them along with their respective weapons fled the spot. The cause of the enmity is that my brother Prem Singh, regarding the sheds for the animals given by the Government, had asked the point in the gatherings of the public, to Hardeep Singh Sarpanch for not giving the sheds to the needy persons and due to this enmity, Jaspreet Singh and Hardeep Singh have caused the injuries to my brother Prem Singh. Then I and my brother Kehar Singh, making the arrangement of the vehicle, we took our brother Prem Singh in CH Khamano for administering his treatment and doctor Sahib issuing the notice of my brother, applying the stitches to my brother in his head, administering the first aid to him, doctor Sahib had referred to him for GMCH Sector 32, Chandigarh and then we have admitted our brother in IVY Hospital, Mohali for administering his treatment and he is under treatment, I have seen this incident with my own eyes, the statement is recorded to you, read over and admitted correct and the action may be taken against Jaspreet Singh, Hardeep Singh Sarpanch, Dalbara Singh and Paramjit Kaur. Sd/- Amarjit Singh."

4. Four days thereafter on 26th of April, 2022, complainant suffered another statement which reads as under :

"I am stating that on 21.04.2022, the arguments of Hardeep Singh son of Dalbara Singh with my brother Prem Singh had taken place on the point of the shed in village Sidhupur, police station Khamano. Thereafter, Hardeep Singh Sarpanch, the arguments which had been contended by my brother Prem Singh, he treated his own insult and after some time thereof, for taking the revenge of his insult, under a pre planned scheme, with his intention to murder my brother Prem Singh, he along with his brother Jaspreet

Singh son of Dalbara Singh, his father Dalbara Singh son of Charan Singh and with his mother Paramjit Kaur, entering in the house, beaten to my brother Prem Singh and with his intention to murder him, Jaspreet Singh, attacked in his head. That till now, my brother did not gain his senses with this attack, with this attack, no movement in the pupil of the eye of my brother Prem Singh is not being done and no more movement is also being done in the body of my brother Prem Singh and I have asked about the recovery of the health of my brother from the treatment team of the doctors and they told this injury is very fatal, due to which, asking something about my brother is very difficult, the above said persons have attacked with their intention to murder to my brother Prem Singh due to which now his health is very critical. Today I, along with my brother Kehar Singh son of Ram, Asra from the IVY Hospital, taking care of our brother Prem Singh, we were coming and then you met us at Naka Khant Malpur, the statement is recorded to you, read over and admitted correct.xxx”

5. It has been contended that in neither of the aforesaid versions there is any allegation of an overt act on part of the petitioner that can attribute him intention to kill the deceased. Petitioner is behind bars since 27th of April, 2022. Not only the investigation stands concluded rather the trial has also proceeded considerably as the material witnesses i.e. the complainant as well as three alleged eye-witnesses already stand examined and thus there can't be any apprehension that the petitioner shall tamper with the evidence.

6. Per contra, Mr. Ghuman has opposed the bail plea eloquently. It has been contended by him that it is a classic case wherein an elected representative has misused his authority. He submits that there are

allegations against the petitioner of misusing mobile phone while in police custody. He joins issue w.r.t. the overt act and submits that in the X-Ray report of deceased dated 21st of April, 2022 his third rib on left side was found to be fractured and i.e. for the reason that the present petitioner gave stick blow on the chest of the deceased.

7. Faced with the situation counsel for the petitioner has taken this Court to the MLR (Page 14) to show that as per the same only one injury was found on the person of the deceased which has been described as under :

“9X0.5cm lacerated wound on the head midline.xx”

8. Having heard rival contentions of counsels representing the parties and after going through records of the case, this Court finds that the petitioner has already suffered incarceration of about 2 years. In the FIR, the role attributed to him is of *lalkara*. Mr. Ghuman does not dispute that even in subsequent supplementary statement suffered on 26th of April, 2022 no overt act has been attributed to the petitioner.

9. In view of above, 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, 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.

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

April 02, 2024			(Pankaj Jain)
Dpr			Judge
	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No