

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-9379-2024

Date of Decision:-19.03.2024

Hussanpreet Singh @ Hussan Bhinder.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Raj Kumar Selwan, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General,
Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.185 dated 16.08.2021 under Sections 302, 452, 120-B, 148, 149 IPC registered at Police Station City Samana, District Patiala, Punjab.

2. The present FIR came to be registered at the instance of Sunil Kumar which reads as under:-

“ At this time, a statement by Sunil Kumar son of Karam Chand resident of Amamgarh Mohalla Near Panj Mukhi Mandir, Police Station City Samana District Patiala aged about 35 years Mobile No. 9876766972 in presence of SI Sahib Singh 2350/Pati First Officer Police Station City Samana for registering the FIR against Akshay son of Paramjit alias Pamma, Harpreet alias Happy son of Sohan Lal, Paramjit son of Mahinder Ram residents

of Mohalla Samana, Gagan Dhillon (Akshays brother in law. I am the son of Pritam Singh resident of Near Gyan Anjan Public School Samana and 2/3 unknown persons for crime under sections 302, 452, 1208, 148, 149 of IPC by hand Constable Harbans Singh 2043/Pati received at Police Station the contents of which are that Stated that I am resident of the above address and use to do driving work. I have three sons My eldest one name is Rajan alias Jonny aged about 22 years who is married to Pooja resident of Pehwa. Younger to him my son is Sajan and my youngest son is Gurpreet alias Gunnu. Today on dated 16.08.2021 my son Rajan alias Jonny had told me, that I was passing from the street at around 2:30/2:45 PM then Akshay son of Paramjit Singh resident of Mohalla Amamgarh was abusing me by stopping in the street and was threatening to kill and was saying that your brother Sajan has not done well by keeping my mother forcibly by separating her from us illegally From whom I came by running and protecting my life. I have a doubt that he has gathered more boys. All these facts my son Rajan had told me on reaching home. After these I have made my son Rajan understand that you have to be careful. My son Rajan from me went towards Panj Mukhi Mandir for doing prayers. Then within 2-3 minutes my son Rajan returned back by running. I have seen that after him Akshay son of Paramjit armed with axe in his hands Harpreet alias Happy son of Sohan Lal armed with Gandasi type iron garari in his hands Paramjit son of Mahinder Ram armed with stick in his hands residents of Amamgarh Mohalla Samana. Gagan Dhillon (Akshays brother-in-law/Jija) son of Pritam Singh resident of Near Gyan Anjan Public School Samana having iron rod in his hands and two three unknown other boys whose names are not known to me, out of

which two were having iron rods and one was having stick running after my son Paramjit alias Pamma son of Mahinder Ram has said by raising loud alarm that Akshay would not allow Rajan to do unhurt today he has to be finished today. Then in the meantime my son Rajan started running ahead of them to save his life. All of them carrying their weapons started running after my son Rajan. I have also run after them. To save his life my son Rajan running between the atta chakki of Surjeet Ram alias Pappi former MC from the backside of atta chakki entered the house of Surjeet Ram. All of them after him also entered the house of Surjeet Ram carrying their weapons. Right on my seeing and stopping/Akshay has given a reverse attack of axe carrying in his hands on the neck of my son Rajan. In the meantime Harpreet alias Happy has given the attack of his gandasion the backside of the head of my son Rajan and Gagan Dhillon has given iron rod attack carrying in his hands towards my son Rajan which hit him on the left elbow. My son Rajan fell down in the porch Then while lying on the ground an unknown boy has given his stick attack on the back of my son Rajan and other unknown boy gave an attack of iron rod on the back (moran) of my son Rajan and third unknown boy attacked with his iron rod on the (moran) in between neck of my son Rajan while lying on the ground. When I raised an alarm of "mar ta mar ta bachao bachao (killed-killed, save-save) and Akshay threw me down by pushing and started saying that his work has been finished let us go. In the meanwhile my son Sajan and other people of Mohalla have come. That all the above with their weapons ran away from the spot whom me and my son Sajan have seen running with their weapons. In the meantime government ambulance has also reached on the spot in which I

took my son Rajan alias Jonny with the support of my son Sajan to Civil Hospital Samana where the doctors declared my son Rajan as dead. After keeping his dead body in the mortuary of Civil Hospital Samana along-with my son Sajan was coming to give information to you. You met me on the gate of Civil Hospital Samana where I have got recorded my statement word by word by explaining rend heard and it is correct. The reason is enmity that Paramjit and his son Akshay has a doubt that Akshay's mother Parveen who is living separate from them from one and half years is living with my son Sajan in relation. Due to this reason the above persons in connivance to each other gave injuries to my son and murdered him. Against all the above persons suitable legal action be taken and maximum punishment be given, I should be given justice Complainant SD/- Sunil Kumar."

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The name of the petitioner figures in the disclosure statement of the his co-accused Akshay. Complainant-Sunil Kumar has been examined as PW-1, eye witness Binder Singh has been examined as PW-3 and another eye witness Surjeet Ram has been examined as PW-4. None of them have supported the prosecution case and have turned hostile. As the petitioner was in custody since 26.10.2022, only 05 of the 30 Pws had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. The Counsel for the State on the other hand contends that the petitioner and his co-accused assaulted the deceased leading to his death.

Therefore the nature of the allegations did not entitle them to the concession

of bail. He however concedes that the petitioner was in custody since 26.10.2022, only 05 of the 30 Pws had been examined so far and that all the material witnesses had not supported the prosecution case.

6. I have heard learned Counsel for the parties.
7. Admittedly, none of the material witnesses have supported the prosecution case including the complainant. Whether the remaining evidence available on record is sufficient to establish the guilt of the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. The petitioner is in custody since 26.10.2022 and only 05 of the 30 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.
8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Hussanpreet Singh @ Hussan Bhinder** son of Sh. Gurnam Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 19, 2024
Vinay

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