

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-9705-2024

Date of decision:18.04.2024

Binder Singh alias Mundri and others

....Petitioners

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vikas Kumar, Advocate for the petitioners.

Ms. Priyanka Sadar, AAG Haryana.

Mr. D.S. Virk, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in case bearing FIR No.302 dated 06.07.2023, registered for the offences punishable under Sections 147, 149, 323, 341, and 506 of IPC (Sections 325, 307 and 354-B of IPC added later on) and Section 25 of Arms Act at Police Station Sirsa Sadar, District Sirsa, Haryana.
2. The case set up in the FIR in question (as set out in the present petition by the petitioners) is as follows:-

“Statement of Paramjeet Kaur wife of Tarsem Singh, caste Majbi Sikh, resident of village Bhamboor, aged about 45 years, Mobile No. 98123 92850. Stated that, I residing at am the aforementioned address and a household lady. On 05.07.2023 at about 9 O'clock my brother-in-law (Devar) Kripal Singh has gone to bring grocery items from the Grocery Shop in the village. Mundri son of Devi Lai, Angrej Singh son of Ruldu Ram, Balraj son of Chinder Pal, Tony son of chadta Singh Jinder son of Miyan Mammu son of Chinda Singh, Kakka Son of Jamail Singh, Mandu son of Kamail Singh, Ranjit son of Jagdish Kamboj and Baljeet son of Hardev Singh all residents of Bhamboor armed with dandas, lathis and sharp edged weapon were already present on the shop of Hanshu. They had come in the car of Ranjit Kamboj. When my brother- in-law (Devar)

Kripal Singh reached near the shop of Hansu, all of them started abusing him and when my brother-in-law (Devar) started moving back to his house, they obstructed the passage of my brother-in-law (Devar) Kripal Singh and attacked him with lathi, danda and sharp edged weapons. On hearing the noise, I and my son Manohar son of Tarsem Singh went to rescue Kripal Singh then all of them also caused injuries to my son Manohar with danda and sharp edged weapons and gave fist and slaps to me. Mandu son of Karnail Singh was carrying a pistol which was seen by me. When I raised alarm, several people of the village reached at the spot. Deepa son of Kaur Singh also gave slaps to me. All the assailants, on seeing several people of the village reaching at the spot, fled away from the spot alongwith their respective weapons and while going they extended threats to kill us on next available opportunity. After arranging the conveyance, I along with my family members shifted my brother-in-law (Devar) Kripal Singh and my son Manohar to Govt. Hospital, Sirsa where the doctor, after giving first aid to my brother-in-law (Devar) issued their MLRS from where they were and my son, referred to higher centre. Now my brother-in-law (Devar) Kripal Singh and my son Manohar have been admitted in City Health Care Hospital, Sirsa. Both are unconscious. You have come to the hospital. I have got my statement recorded to you. I have heard it and the same is correct. I have got my statement recorded in the presence of Tejvinder Singh. Action be taken against all of them. RTI Paramjeet Kaur."

3. Learned counsel for the petitioners has argued that the petitioners are in custody since 08.09.2023 and 23.09.2023 respectively and challan already stands presented after completion of investigation. Learned counsel has further argued that the injury, on the basis of which Section 307 of IPC has been invoked, is not attributed to the petitioners. Learned counsel has further argued that the petitioners have been falsely implicated on account of party faction in the village. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel as also the learned counsel for the complainant have opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioners do not

Learned State counsel seeks to place on record custody certificate dated 17.04.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioners were arrested on 08.09.2023 and 23.09.2023 respectively whereinafter investigation was carried out and challan stands presented on 10.11.2023. Total 28 prosecution witnesses have been cited and the culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether the petitioners have been falsely implicated in the case in hand or the aspect of the petitioners being part of unlawful assembly or having a common object with other accused; will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioners absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 17.04.2024 filed by learned State counsel, the petitioners have already suffered incarceration for a period of more than 08 months & are not shown to be involved in any other case.

Suffice to say, further detention of the petitioners as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioners shall remain bound by the following conditions:-

- (i) The petitioners shall not mis-use the liberty granted.

- (ii) The petitioners shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioners shall not absent themselves on any date before the trial.
- (iv) The petitioners shall not commit any offence while on bail.
- (v) The petitioners shall deposit their passport, if any, with the trial Court.
- (vi) The petitioners shall give their cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change their cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioners shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioners.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

April 18, 2024
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No