

2024.PHHC:165629



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-14543-2024
Date of Decision: 11.12.2024

Jasvir Singh ...Petitioner
Versus
State of Punjab ...Respondent
and

2. CRM-M-33820-2024
Harinderjit Singh alias Sunny ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Manu K. Bhandari, Advocate
for the petitioner in CRM-M-14543-2024.

Mr. Suneel Sharma, Advocate
for the petitioner in CRM-M-33820-2024.

Ms. Avneet, AAG, Punjab.

Mr. Anil Kumar, Advocate for the complainant.

KULDEEP TIWARI, J. (ORAL)

1. Both the above mentioned petitions are amenable to be decided together, as common relief of regular bail has been sought and, therefore, they are being taken up together for final disposal.
2. Through the instant petitions, as filed 439 Cr.P.C., the petitioners crave for indulgence of this Court for their being enlarged on regular bail, in case FIR No.175 dated 26.06.2023, under Sections 302/307/323/506/148/149

IPC, 1860 registered at P.S. City Rajpura, District Patiala.

3. Custody certificates *qua* the petitioners as well as status reports dated 10.12.2024 by way of affidavit of Mr. Manjit Singh, PPS, Deputy Superintendent of Police, Circle Rajpura, District Patiala have been filed by the learned State counsel today in Court in both the petitions, the same are taken on record.

4. The petitioner-Jasvir Singh was arrested in this case on dated 10.07.2023 whereas, the other petitioner-Harinderjit Singh @ Sunny was arrested on 14.07.2023 and till date they are behind the bar in the above FIR.

5. Shorn of unnecessary details, the facts which are essential for the adjudication of the instant petitions are, that the prosecution agency was set into motion on a complaint made by one Harmanjot Singh and that statement became the bedrock of the registration of the instant FIR. The relevant of the same is extracted hereinafter:-

“Stated that I am resident of the above mentioned address and running a vegetable stall (Farhi) at Chara Mandi Rajpura Town. Yesterday on 25.06.2023 around 10.30 P.M., Has Mukh son of Karam Singh resident of village Dhindsa, Police Station Kheri Gandian District Patiala, who came on his motorcycle No. PB-12-Z-0199, was fighting with a fruit vendor near my stall, whom I, my younger brother Sachinder Singh and Gurmit Sharma son of Roshan Lal, who is resident of our village were trying to understand and stopping him from fighting, but he started abusing and manhandling with us. Then on his call, a car bearing No.PB-39 K-0282 which was being driven by Sandeep Singh @ Sunny son of Gurnam Singh, resident of H.No.6-B, Block No.10-B, near Vikas Nagar, Rajpura, two other unknown youths came, whom I can recognize when I come across them, who were holding swords in their hands and a Scorpio Car bearing No.PB-65 M-1877, which was being driven by Sukhdev Singh son of Surinder Singh, resident of village Bhateri Police Station Sadar Rajpura, District Patiala, two other unknown youths came, who I can recognize when I come across them, who were holding swords in their hands and Kanwalt Singh son of Harbhajan Singh resident of village Saidkheri Police Station Kheri Gandian, District Patiala also came on the spot on Splendor Plus Motorcycle bearing No.PB-11 CE- 6050, holding stick

in his hand. Then all of them started beating us, on which my brother Sachinder Singh called my uncle Swaran Singh son of Amarjit Singh resident of village Neelpur, Rajpura, they immediately left with their weapons and vehicles and it were they who threatened my uncle by calling. In the meanwhile my uncle Swaran Singh reached at the spot. Then my uncle told us that we will talk tomorrow morning. While we were still standing at the spot, all the above mentioned people came back to the spot with their vehicle and weapons and Has Mukh said with a challenge that they should not be allowed to leave today. They attacked us with the weapons they held in their hands. Who, with the intention of killing us, inflicted serious injuries on my uncle and my brother Sachinder Singh with swords and sticks. When I and Gurmeet Sharma raised an alarm, a large crowd of people gathered there, seeing which all the above mentioned youths ran away from the spot alongwith their vehicles and weapons.”

6. After 4 days of registration of the above FIR, the statement of injured-Sachinder Singh was recorded on dated 30.06.2023 (Annexure P-2), wherein, apart from eight accused as mentioned in the FIR (supra) (4 known and 4 unknown), 13 more persons were arraigned as an accused, in which the name of the petitioner-Jasvir Singh was also figured out. The statement of Sachinder Singh is also extracted hereinafter:-

“We were still present at the spot and in the meantime all above persons armed with their weapons again came at the spot in above vehicles with more persons. Among them were Harvinder Singh @ Hani s/o Charanjeet Singh along with Manjeet Singh @ Mani s/o Nihaljeet Singh resident of Village Nardu, armed with swords, on one bullet motorcycle bearing registration no.PB-11-BN-8331 silver color, Gursewak Singh @ Billas/o Nirbhai Singh r/o village Ghumana in his white colored Skoda car bearing registration no.PB-11-BM-9797 along with Simranjeet Singh s/o Satnam Singh r/o village Nardu and Gurdeep Singh @ Deepa Ganda s/o Late Ajaib Singh r/o village Khanpur Gandian, Gurtej Singh s/o Darshan Singh r/o village Mehma and Pameshar Singh @ Pesu s/o Jang Singh r/o village Sohron, who were armed with swords in their hands, and Jasbir Singh @ Batti s/o Baljinder Singh along with Jaswinder Singh @ Banti s/o Mahinder Singh and Amandeep Singh @ Aman s/o Kulwinder Singh r/o village Dhinsa came riding on one bullet motorcycle, the number of which I don't remember now. Among them Jaswinder Singh was armed with danda and others were carrying swords in their hands.”

7. The collective study of the above both statements reflect the following facts:-

(i) That in the FIR (supra), both the petitioners were not named and no role has been assigned to them.

(ii) In the statement of Sachinder Singh, which was recorded after 4 days of the occurrence, though the name of Jasvir Singh (petitioner in CRM-M-14543-2024) is figured out, as the member of the unlawful assembly, who attacked upon the deceased and the injured. However, no role is attributed to him of causing any injury to the deceased.

8. During the investigation, co-accused namely, Hasmukh Singh, one of the main assailants, was arrested and in his disclosure statement, the name of Harinderjit Singh alias Sunny (petitioner in CRM-M-33820-2024) surfaced which led the investigation agency to arrest him in the instant FIR. The recovery which was effected from Jasvir Singh and Harinderjit Singh are swords, which were allegedly used in the instant crime.

9. Learned counsel for the petitioner-Jasvir Singh submit that there is no allegation against the petitioner that he ever caused any injury to either the deceased, or to the victim/injured-Sachinder Singh. The only allegation, that too, after 5 days of the occurrence, in the shape of the statement of the victim/injured Sachinder Singh is that petitioner-Jasvir Singh, was one of the member of unlawful assembly. It was further submitted that the petitioners have suffered incarceration about 1 year and 05 months as on today and till date no witness has been examined by the prosecution.

10. The learned counsel for the petitioner-Harinderjit Singh @ Sunny submits that except the disclosure statement there is no incriminating evidence

to connect the present petitioner with the instant crime. He further submits that whether, the recovery of the sword would connect him with the instant crime is a debatable issue adjudicated by the learned trial Court concerned.

11. The relief which has been sought through the instant petitions has been vociferously opposed by the learned State counsel assisted by the learned counsel for the complainant. They drew attention of this Court towards the injuries, as suffered by the deceased and the victim. It is submitted that the injuries which have been suffered by the deceased and victim cannot be caused by one or two persons, as there are as many as 19 injuries, which were found at the time of conducting post-mortem on the person of the deceased-Swaran Singh whereas, 3 injuries were suffered by the injured/eyewitness Sachinder Singh. The learned counsel for the complainant further submitted that on the account of the petitioners being the members of unlawful assembly, are vicariously liable for the act and conduct, of the other co-accused, therefore, they are not entitled for the relief of regular bail.

12. This Court has considered the rival submissions made by learned counsel for the parties concerned and is of the view that these petitions are amenable to be allowed for the reasons extracted hereinafter:-

(i). It is not under dispute that in the initial version, which was recorded in the FIR the name of the present petitioners are not figured out anywhere. Further even in the statement of the injured/victim which was recorded after 4 days of the occurrence, only the name of petitioner-Jasvir Singh is figured out, however, no role whatsoever is assigned to him of causing of any injury to the deceased.

(ii) The name of co-accused Harinderjit Singh @ Sunny was surfaced during the investigation, that too, on the disclosure

statement of the co-accused.

(ii). Whether the probative value of the statement of the victim/injured Sachinder singh and the disclosure statement of the co-accused would be examined by the learned trial Court concerned, this Court at this stage especially while deciding the issue of regular bail refrains it from making any observation. The days of incarceration suffered by the petitioners are more than 1 year and 5 months and despite the charges being framed way back on 21.02.2024, till date out of total 49 prosecution witness cited in the final report, no witness has been examined.

13. Therefore, in view of the totality of the facts and circumstances and the days of incarceration and the stage of the trial, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioners. Therefore, the present petitions are **allowed**.

14. The petitioners are ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

15. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petitions only.

16. A photocopy of this order be placed on the file of connected case.

(KULDEEP TIWARI)
JUDGE

11.12.2024
Ajay-1/Parveen kumar

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