

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30864-2024
Reserved on: 02.08.2024
Pronounced on: 12.08.2024

Harjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. Nitesh Sharma, D.A.G., Punjab.

Mr. V.K. Kaushal, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
119	06.09.2023	Sri Hargobindpur, Police District Batala	302, 452, 34 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973 seeking anticipatory bail.
2. In paragraph 15 of the bail petition, the accused declares that he has no criminal antecedents.
3. Facts of the case are being taken from short reply dated 10.07.2024 filed by concerned DySP which reads as follows:-

“The brief facts of the case are that the present case/FIR was registered on the basis of a statement made by Simranjit Kaur, who is the daughter of deceased Satnam Singh. As per her version, in the morning of 05.09.2023 an altercation took place between her father Satnam Singh and accused Harjit Singh son of Balkar Singh and Balkar Singh son of Pritam Singh in connection with laying of floor by Satnam Singh in front of his shops. After the altercation, Satnam Singh came back to his house. After a short while, Harjit Sigh son of Balkar Singh armed with iron sabal, Balkar Singh son of Pritam Singh armed with spade, accused Jaswinder Kaur carrying a brick bat and Palwinder Singh son of Balkar Singh empty handed came to the house of the deceased. Palwinder Singh had exhorted the other accused to catch him and teach him a lesson for laying the pucca floor in front of his shops.

Harjit Singh gave a blow with his iron sabal on the right arm of Satnam Singh. Balkar Singh gave a blow with the reverse side of the spade on the left thumb of Satnam Singh. Accused Jaswinder Kaur allegedly threw a brick bat and the same hit on the head of Satnam Singh. The complainant and the eye witness Charanjit Singh allegedly intervened into the matter and thereafter the accused left the spot. Satnam Singh was immediately rushed to a private hospital. During the course of the treatment he died on the same day at about 10:30 p.m. Initially, the doctors who conducted the postmortem examination on the dead body of Satnam Singh did not give their final opinion regarding cause of his death and they deferred the same till the receipt of report of histopathology examination and the chemical examination of the viscera. Eventually, the board of the doctors gave their final opinion after considering the findings of the postmortem report, histopathology report and the report of the chemical examiner that deceased died due to failure of the functioning of the brain, which was sufficient to cause death in an ordinary course of nature.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State opposes bail.

6. Petitioner seeks bail on the grounds of parity with co-accused Jaswinder Kaur who has been granted bail by this Court vide order dated 10.05.2024 passed in CRM-M No.12868 of 2024. Counsel for the petitioner submits that the role attributed to the petitioner was on lesser footing than Jaswinder Kaur, as such he is entitled to bail on the grounds of parity.

7. State counsel opposes the bail on parity as co-accused was granted bail because she is a woman and her role was much less and Jaswinder Kaur was not the real trouble monger. Counsel for the complainant opposes the bail and submits that the petitioner is not entitled to bail on the ground of parity because Jaswinder Kaur had mis-led this Court and it was argued that the injury which was received was on the hand whereas the injury was received on the head and wrong translation copy of FIR was annexed with the petition and incorrect translation has been done from Punjabi to English.

8. Counsel for the complainant submits that although he was appearing in that case on behalf of the complainant but this fact was not brought to his notice even by the complainant's family and as such he could not bring it to the notice of the Court about incorrect translation. He further submits that they are in the process of filing an application for cancellation of bail in the case of Jaswinder kaur and that bail has to be cancelled because of concealment.

9. It would be appropriate to refer to the reasoning given in paras no.8 to 12 of the said order which reads as follows:-

“8. An analysis of the first statement which was made by victim himself when he was injured explicitly mentions that an altercation took place between him, petitioner and Harjit Singh who are his neighbours. The cause of occurrence was because the victim was cementing the area in front of his shop which was objected by Harjit Singh and the petitioner. It was explicitly mentioned by Satnam Singh that Harjit Singh had given a blow with an iron rod which had caused many injuries to him and had also threatened to kill him.

9. A perusal of the earlier statement reveals that FIR which was recorded on the basis of a complaint made by victim's daughter had made material improvements and injuries were attributed to other persons including the petitioner. In the FIR, the complainant alleged that the petitioner had hurled a stone at her father which hit on his hand. Even in this improved version, there is no reference that the petitioner was carrying a brick bat or she had caused any injury on the victim's head.

10. In the post-mortem report (Annexure P-2), injury no.4 was an injury which was received on the victim's head and as per para no.4, it was a diffused swelling on the right side of the head. Further dissection found subgaleal hematoma on the right side of the scalp. After that the Board of Doctors opined that the cause of death was failure of function of brain, thus, cause of death is specific. Even in the earliest version made by the victim himself, he did not attribute the injury to the brain to the petitioner. There is another angle to the case. The concerned DySP had also conducted an inquiry regarding the incident. Whether said inquiry is part of investigation or not is a matter of trial and how prosecution projects it but under no circumstance such inquiry report can be thrown away and is a waste exercise, that being so the powers of the police to conduct inquiry would become redundant which is contrary to the statutory scheme. This Court is considering the inquiry report to analyse whether it points out towards any prima facie contradiction on the basis of allegations made in the FIR, earliest report and what the DySP had observed.

11. The inquiry report is extracted as follows:-

“It is submitted that the above numbered application was given by Sumandeep Kaur daughter of Gurjinder Singh, resident of Cheema Khudi, Sajan Singh son of Madha Singh, resident of village Sangatpura and Simranjeet Kaur wife of Gurpreet Singh, resident of Ladhupur for getting conducted inquiry in FIR No.119 dated 06.09.2023, u/s 302, 452, 34 IPC, PS Sri Hargobindpur, which has been marked to me for inquiry. In this regard, both the parties were joined in the inquiry by issuing various summons and their statements were recorded,

which are follows.

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From the inquiry conducted by me uptill now, it has been found that deceased Satnam Singh has constructed shops facing road near his house and he was laying the flooring with sand and crusher in front of the shops. On 05.09.2023 at about 8/8:30 AM, due to this reason, Satnam Singh (deceased) had a quarrel with Jaswinder Kaur and Harjit Singh. During quarrel, Harjit Singh gave beatings to Satnam Singh, due to which Satnam Singh suffered injuries on his right arm and left hand etc. (In this regard, Satnam Singh intimated his brother-in-law Jaswinder Singh through phone of Palwinder Singh. Recording is attached.) With regard to this quarrel, Jaswinder Kaur informed her son Balwinder Singh from her mobile phone at 8:34:36 AM (29 seconds). Simardeep Kaur has also verified this fact that Jaswinder Kaur informed her son Palwinder Singh after the quarrel. That Palwinder Singh was at Harchowal (his mobile tower location at 8:45:59 AM was opposite Punjab Gramin Bank, Old bus stand, Sri. Hargobindpur, Tehsil Batala, District Gurdaspur; Pin: 143515, Punjab, India, Sri. Hargobindpur) who reached Mohalla Santokhpura, Sri. Hargobindpur after about 16 minutes of the occurrence. Then Palwinder Singh accompanied Daljit Singh and took Satnam Singh for treatment in his car to Pathak Hospital, Tanda. After reaching hospital, Palwinder Singh made a payment of Rs.2500/- from his Pay APP to Pathak hospital. Complainant Simranjeet Kaur along with her father-in-law Salwinder Singh also reached Pathak Hospital. This is evident from the tower location of complainant Simranjeet Kaur having Mobile No.98154-75524 at 10:54:46 AM (Gulam Sweet Shop near Pathak Hospital, Miani Road, Tanda, Tehsil Dasuya, District Hoshiarpur) and of her father-in-law Salwinder Singh son of Harnam Singh having Mobile No.95010-47288 at 11:15:41 AM (Gulam Sweet Shop near Pathak Hospital, Miani Road, Tanda, Tehsil Dasuya, District Hoshiarpur). All of them reached village Marri Panuan, Sri Hargobindpur, Batala, District Gurdaspur at 12:09:24 PM. As per the statement of Sumandeep Kaur during inquiry, Satnam Singh had given complaint in the police station only against three persons. In order to verify this, Head Munshi Paramjit Singh, Assistant Munshi Gurpreet Singh and Duty Officer SI Sawambarjit Singh were joined the inquiry and their statements were recorded. Attested photocopy of the miscellaneous register of the police station regarding entry of complaint No.1306 dated 05.09.2023 of Satnam Singh was obtained from Head Munshi Paramjit Singh, from which it was found that Satnam Singh himself along with his daughter Simranjeet Kaur and two other persons came to police station on 05.09.2023 at 12:30 PM and got written a complaint from Assistant Munshi Gurpreet Singh, in which Satnam Singh had mentioned that only Jaswinder Kaur and Harjinder Singh caused him injuries and he signed under the same in Punjabi. After the death of Satnam Singh, Simranjeet Kaur got registered

an FIR on 06.09.2023 against Balkar Singh, Jaswinder Kaur, Harjit Singh and Palwinder Singh. This is also evident from the audio recording of the conversation between Palwinder Singh, Satnam Singh and his brother-in-law Jaswinder Singh. During this conversation, Satnam Singh is clearly telling his brother-in-law Jaswinder Singh that accused Harjit Singh gave him two rod blows causing injuries on his arm and thumb. Apart from him, he does not tell the name of any other person including Jaswinder Kaur, Balkar Singh and Palwinder Singh to his brother-in-law Jaswinder Singh, From my inquiry uptill now, it has been found that during quarrel with Satnam Singh, Harjit Singh injured Satnam Singh on his arm and thumb with a rod. At that time, Jaswinder Kaur and Balkar Singh were also present at the spot, but both of them have not caused any injury to Satnam Singh. This is also evident from the audio recording. They have not caused any injury to Satnam Singh and only Harjit Singh has been found to have caused injuries. It has been found that Palwinder Singh was not present at the spot because he had gone out of Mohalla Santokhpura at 7:48:22 and had gone to village Mathaula at 8:00:07 AM and remained at Harchowal from 8:14:53 AM to 8:34:36 AM and after receiving the call from his mother Jaswinder Kaur at 8:34:36 AM, he left for his village and reached village Mathaula at 8:41:24 AM and then Mohalla Santokhpura, Sri Hargobindpur at 8:45:59 AM. It is proved that Palwinder Singh was not present at the spot at 8:30 AM when quarrel took place in Mohalla Santokhpura. Rather, he had come to the spot after the quarrel and took Satnam Singh for treatment to Pathak Hospital, Tanda, District Hoshiarpur. From my inquiry, Palwinder Singh has been found to be innocent in this case. Further, Balkar Singh and Jaswinder Kaur were although present at the spot but they have not caused any injuries to Satnam Singh which has been verified from the recording of Satnam Singh. If Balkar Singh would have caused any injury to Satnam Singh, then Satnam Singh must have mentioned the name of Balkar Singh in his application dated 05.09.2023 given to MHC Paramjit Singh and Assistant Munshi Gurpreet Singh at PS Sri. Hargobindpur in the presence of his daughter when he was alive.”

12. *A reference to this inquiry report points out that the complainant was not even aware that the victim had been taken to the hospital by Palwinder Singh who was shown as participant but was not even present at the spot. When he had reached at the spot after around 15 minutes, not only he took the injured to the hospital but also made payments to the concerned hospital from mobile app. The Inquiry Officer has also conducted his tower location to establish this fact. It has been explicitly mentioned that petitioner although was present at the spot but did not cause any injury to Satnam Singh. He had also referred to audio conversation in this regard. Thus, the evidence collected so far points out two views and one of the view which is favouring prosecution which has not been mentioned in the*

earliest information which is also corroborated by the Inquiry Officer.”

10. Perusal of the above reasoning clearly point out that the reasons for which the accused was granted bail by this Court were altogether different and as such petitioner is not entitled to bail at all on parity with co-accused.

11. The next ground for bail is that the injury attributed to the petitioner was a sabbal blow on the right arm which is an incised wound and cannot be caused by a sabbal because if any injury would be caused by sabbal, it would be a lacerated wound because sabbal is a blunt weapon. State opposes such prayer and submits that petitioner's interrogation is required to find out what was the actual weapon of offence and even if it was sabbal, the injury would be incised if force is used and if the sabbal has sharp edges. State counsel further submits that it is not necessary that every sabbal would be round like iron bar but are usually hexagonal and there is possibility of sharp edge. Petitioner's custodial interrogation is required to find out the truth or may be concealment of fact of weapon or destruction of evidence but the fact that even he is not denying his presence and the participation in crime is sufficient to deny him bail.

12. An analysis of the above arguments would lead to the following outcome. It is not the petitioner's case that he was not present at the spot but his case is that the injury attributed to him was by a sabbal. The argument that injury by sabbal would be incised would depend upon such sabbal being recovered and is being shown to a doctor but prima facie given the fact that injury has been attributed to the petitioner which led to the death of the victim, the petitioner is not entitled to anticipatory bail.

13. A perusal of the bail petition and the documents attached, prima facie points towards the petitioner's involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

15. **Petition dismissed.** Interim orders, if any, are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

12.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.