



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CRM-M No.31233 of 2024 (O&M)

Shanky @ Rinku Singh

... Petitioner

Versus

State of Punjab

Respondent

2. CRM-M No.36169 of 2024 (O&M)

Pardeep Kumar @ Bali

... Petitioner

Versus

State of Punjab

Respondent

Date of decision: 25th November, 2024

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Nitish Garg & Mr. Judgepreet S. Warring,
Advocates for the petitioners.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners in both the petitions detailed hereinabove are seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.55 dated 21.10.2023 under Sections 302, 307, 324, 323, 148, 149 of the IPC (Sections 326 and 201 IPC added later on) registered at Police Station Kotfatta, District Bathinda. Since both these petitions have arisen out of the same FIR, they are being taken up together for disposal by way of this common order.

2. Learned counsel for the petitioners submit the false implication of the petitioners in the crime in question is evident from the fact that even though it is a case alleged to be based on eye-witness account, however, while deposing before the trial Court, not only did the complainant (eye-witness to the occurrence in question) but even the other eye-witnesses including the injured eye-witness had not supported the case of the prosecution as a result of which they were declared hostile. Learned counsel have submitted that since all the material witnesses stand examined and as already submitted earlier, have been declared hostile, further incarceration of the petitioners, who have been in custody since 25.10.2023, would serve no useful purpose as 22 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed that the occurrence in question is based on eye-witness account; it has also not been disputed that all the material witnesses including the complainant as well as the injured eye-witness stand examined and did not support the case of the prosecution, leading to all of them being declared hostile. However, learned State counsel has reiterated the allegations levelled in the FIR in question, which stands reproduced hereunder:

"Statement of Gurdeep Singh son of Kartar Singh son of Gurbakhsh Singh, resident of Misarkhana, aged about 48 years. Mobile No. 75279-24900. Stated that I am resident of the above mentioned address and doing the

work of agriculture. We are two brothers. Elder to me is brother Jagsir Singh. I am younger to him. My brother Jagsir Singh has two sons i.e. elder one is Amandeep Singh and younger one is Mandeep Singh. Both are married. Elder Amandeep Singh along with his family is residing separately from my brother Jagsir Singh. The age of Mandeep Singh would be approximately 25 years, who was married with Veerpal Kaur daughter of Major Singh, resident of Gobindpura. The divorce case of Mandeep Singh with his wife is pending before the Court. The fair of Durga Mata is held twice in a year in our Village Maisarkhana. Even this time, the fair is of dated 19,20,21.10.2023. During previous night my nephew Mandeep Singh had gone to see the fair, then it would be at about 1:50 AM, as when our neighbourer Manpreet Singh son of Pappu Singh came to me at house, who told me that some unidentified persons have inflicted injuries to Mandeep Singh alias Nikka, who is lying on Main Road on Bathinda Mansa Road Near Kisan Kularha Main Road. In this regard, I gave information to my brother Jagsir Singh and we immediately reached at the spot, where we saw that injuries had since been sustained with some sharp edged weapon on the backside of head, on right eyebrow of Mandeep Singh alias Nikka and the little finger of left hand and adjoining fingers of Mandeep Singh had since been cut, who had since been expired. Alongside we also saw that another youth was sitting on the side of the road while holding head, on whose head and fingers of left hand injuries were since sustained, subsequently whose name came to be known as Ranjit Singh son of Bhola Ram, resident of Alike, Police Station Sadar Ratia, District Fatehabad (Haryana). Huge gathering at the spot

had since been taken place, then I by making call on No. 108 got called ambulance and we after loading both Mandeep Singh and Ranjit Singh in the ambulance, brought them to Civil Hospital, Bathinda, where the doctor declared Mandeep Singh as dead and started the treatment of Ranjit Singh. The dead body of Mandeep Singh is lying in the dead house of Civil Hospital Bathinda and Ranjit Singh is under treatment. Some unidentified persons have inflicted injuries to my nephew Mandeep Singh and Ranjit Singh, resident of Alike with the intention to eliminate with the sharp edged weapons, due to which the death of Mandeep Singh has taken place and Ranjit Singh is under treatment at Civil Hospital Bathinda. In this regard after conducting verification, stern action may be taken against the persons committing elimination of Mandeep Singh and causing injuries to Ranjit Singh with the intention of elimination. In this regard we have also been conducting inquiry at our own level, if we get any clue, then we shall inform you in this regard. The statement has been got recorded to you, heard, the same is correct. Sd/- Gurdeep Singh above.”

4. Learned State counsel has submitted that though the FIR in question was registered against unknown assailants, who came to the spot and inflicted fatal injuries, however, subsequently in a supplementary statement recorded under Section 161 Cr.P.C., the complainant had categorically detailed the roles played by both the petitioners. Learned State counsel, on further instructions, has not disputed the custody period of the petitioners as well as the stage of trial.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. All the material witnesses including the complainant and the injured eye-witness stand examined. As not disputed by the learned State counsel, all these material witnesses were declared hostile during trial. In the facts and circumstances, as enumerated hereinabove, this Court, thus, deems it fit to extend the concession of bail to the petitioners. Both the petitions, as such, are allowed and the petitioners are admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

November 25, 2024
rps

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