



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

CRM-M No.32816 of 2024
Date of decision: 26th September, 2024

Kulwinder Singh @ Kinda

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gurmeet S. Saini, Advocate for the petitioner.
Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 438 Cr.P.C. in case FIR No.46 dated 27.05.2021 under Sections 323, 324, 427, 148, 149 of the IPC (Sections 302, 326, 325 IPC added later on) and sections 25, 27 of the Arms Act, 1959 registered at Police Station Sadar Rampura, District Bathinda.

2. In compliance of order dated 02.08.2024, short reply by way of an affidavit of Amneet Kondal, IPS, SSP Bathinda, has been filed today in the Court, which is taken on record subject to all just exceptions.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case, solely based on a photograph that purportedly shows him at the place of the crime

along side the co-accused. It is submitted that the petitioner was neither named in the FIR, nor mentioned in any supplementary statements recorded by the deceased or by other witnesses present at the time of alleged occurrence. Furthermore, the petitioner's name did not even surface in the disclosure statement allegedly made by the co-accused. Learned counsel has further argued that apart from the photograph, which is claimed to have been taken just before the occurrence in question, there is no other credible evidence available with the Investigating Agency that could link the petitioner to the crime in question. Learned counsel submits that in the facts and circumstances, the petitioner's custodial interrogation would serve no useful purpose and he is willing to join investigation and cooperate with the Investigating Agency as and when required.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has drawn the attention of this Court to the reply which has been filed today. It has been submitted that during the course of investigation and on a perusal of the photographs and other video recordings etc. collected by the Investigating Agency, the petitioner was not only clearly visible at the scene of crime, armed with a stick, but was also seen actively participating in the murderous assault on the deceased. The learned State counsel has in particular drawn the attention of this Court to a video clip provided by the brother of the deceased wherein the petitioner is clearly visible armed with a stick and inflicting multiple injuries on the deceased Harvinder Singh, as well as on the other injured persons,

Satpal Singh, Hardeep Singh and Jaswinder Singh. It has been asserted that the involvement of the petitioner stands corroborated by the statement of one of the witnesses Gurvinder Singh which fact has also been detailed in paragraph No.35 of the reply. Learned State counsel has further submitted that the weapon of offence used by the petitioner has not been recovered and the challan has not been presented against him yet. Hence, his custodial interrogation is required not only for the recovery of the weapon of offence but even for the effective completion of the investigation.

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

6. It would be apposite to reproduce the FIR in question, which reads thus:

"Statement of Harwinder Singh @ Coach son of Dev Singh son of Kartar Singh, resident of Ali Patti Chaoke, aged 26 years, mobile No.98760-12250. Stated that I am resident of above said address, I do agriculture and I am also a player of Kabaddi. Some days ago, Gagana Singh and Babbu Singh sons of Gella Singh, residents of Village Chaoke took away chicken from the house of my uncle Makhan Singh son of Kartar Singh, due to which, my uncle Makhan Singh raised objection by visiting the house of Gela Singh but Babbu Singh and Gagna Singh were keeping grudge on the said matter. I used to help my uncle Makhan Singh. Due to said reason, yesterday on 25.05.2021, heated arguments took place between me and Gagna Singh, Babbu, who threatened me that they will see me. Then at about 6/7 pm, I alongwith my friends Satpal

Singh s/o Binder Singh, Jaswinder Singh @ Jassa s/o Bant Singh, Hardeep Singh @ Deepi s/o Teja Singh, Satpal Singh @ Kala s/o Naib Singh, residents of Village Chaoke were talking to each other while sitting at the motor of my friend Buta Singh s/o Balwinder Singh, r/o Village Chaoke situated on Pitho Road then at that time, Gurjeet Singh s/o Binder Singh armed with Gandasa, Babbu Singh s/o Gela Singh armed with Dang, Gagana Singh s/o Gela Singh armed with Kipan, Seepu Singh s/o Binder Singh armed with Baseball and Keepa Singh s/o Darshan Singh armed with pistol, residents of Village Chaoke came up in fields and started raising lalkaras. Buta Singh and Satnam Singh due to fear, fled away from the spot. Above said persons on coming started causing me beatings. Keepa Singh holding a pistol in his hand, pointed towards me, Gurjeet Singh carrying Gandasa hit on the lower side of knee of my right leg. I fell down. While I was lying down, Seepu Singh gave Baseball blow on calf muscle of my left leg, Babbu Singh gave Dang blow on my left hand. Then Gurjeet Singh gave reverse Gandasa blow on my left shoulder. Then Jaswinder Singh, Hardeep Singh and Satpal Singh came forward for my rescue but Gurjeet Singh hit blow of Kirpan on left hand of Satpal Singh and hit reverse Gandasa blow on right leg, Seepu Singh gave Baseball blow on left knee. Then Gurjeet Singh gave Gandasa blow on the ankle of left leg of Satpal Singh. Then they also caused injuries on left arm, right knee, near head, left arm and right hand of Hardeep Singh with their respective weapons. Gurdeep Singh gave Gandasa blow, Babbu gave Dang blow near head, Seepu gave Baseball blow and Babbu Singh gave Dang blow on Jaswinder Singh @ Jassa. Then Buta Singh and Satnam Singh raised alarm by standing at some distance and we also raised alarm Marta - Marta'. Said

persons were also followed by 15/20 unknown persons, who also raised lalkaras. But on raising alarm by us, all said persons fled away from the spot with their respective weapons. While fleeing from the spot, they caused damage to our motorcycles parked there by giving Dang blows, whereby they caused damage to my without number CT 100, Satpal Singh's motorcycle CT 100, Jaswinder Singh @ Jassa's Splendor motorcycle colour silver and farm owner Buta Singh's motorcycle CD DOWN No.9751. Then our relatives by arranging vehicle got all of us admitted at Civil Hospital, Rampura, where we are under treatment. Grudge behind the occurrence is that arguments took place between me, Babbu, Gagna sons of Gela Singh, residents of Village Chaoke on the issue of chicken. Due to said grudge, above said persons caused us injuries. Kindly initiate proceeding against them. Statement got recorded, heard it and the same is correct.”

7. The allegations levelled against the petitioner prima facie are of a serious nature, involving the murder of one person and causing serious injuries to others. Although the petitioner was not initially named in the FIR, which was lodged based on the statement of the complainant however, a perusal of the above reproduced FIR clearly reveals that the complainant (since deceased) too had alleged the involvement of some unidentified persons who inflicted injuries upon him, and which ultimately led to his death.

8. Following an investigation by the SIT, the petitioner was then nominated in the case by way of DDR No.21 dated 22.09.2021. It was revealed that the petitioner, armed with a weapon was present at the

place of occurrence with the co-accused, and had inflicted injuries on the complainant (deceased) and other injured persons, which prima facie finds corroboration with the documentary evidence collected by the Investigating Agency.

9. Moreover, the petitioner has been evading arrest for the past three years, and the chargesheet is yet to be filed against him. Therefore, his custodial interrogation is essential for the recovery of the weapon and conducting a thorough investigation.

10. In the light of the serious allegations against the petitioner, the role attributed to him, and the pending recovery of the weapon of offence, this Court does not deem it fit to extend the extraordinary concession of anticipatory bail to the petitioner in the instant case. The petition is dismissed. 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

September 26, 2024
rps

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