



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

225

CRM-M-43388-2024

Date of decision: 10.09.2024

KHUSHI @ JASSA SUKHCHAIN SINGH

....Petitioner

V/s

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Inderjit Sharma, Advocate, for the petitioner.

Mr.Amit Rana, Sr.DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.0046 dated 27.05.2021 under Sections 323, 324, 427, 148, 149 of the IPC and Section 25 and 27 of the Arms Act No.54 of 1959 (Sections 325, 326 and 302 of IPC added later on) registered at Police Station Sadar Rampura, District Bathinda.

2. Learned counsel for the petitioner submits that the FIR in question was lodged on 26.05.2021 by the deceased Harvinder Singh himself wherein he levelled allegations against co-accused however, as far as the petitioner is concerned, he was neither named in the FIR in question nor any role much less injury was attributed to him. The petitioner came to be nominated later in the supplementary statement recorded under Section 161 of Cr.P.C. by the brother of the deceased (alleged eye-witness) on 22.07.2021. Learned counsel has submitted that even in the supplementary statement recorded by the brother of the deceased Gurvinder Singh, the



only role attributed to the petitioner was of being part of the unlawful assembly along with the co-accused; no specific injury or role had been attributed to him much less on the person of the deceased. Learned counsel has submitted that the petitioner's false implication is also evident from the fact that even though the occurrence in question allegedly took place on 26.05.2021 and the deceased survived thereafter till 06.07.2021, however, it was only after the death of the deceased, his brother Gurvinder Singh got recorded his supplementary statement implicating the petitioner in the present crime. Learned counsel has submitted that in the aforementioned facts and circumstances, further incarceration of the petitioner would serve no useful purpose as not only the investigation is complete, charges stand framed but even three prosecution witnesses stand examined out of the 56 cited. Learned counsel has further submitted that the petitioner has clean antecedents and is not involved in any other criminal case.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has, on instructions from ASI Pardeep Kumar, submitted that no doubt neither was the petitioner named in the FIR in question nor any role was attributed to him in the occurrence in question wherein one person Harwinder Singh lost his life and some other persons, who were present along with the deceased, sustained injuries. However, the petitioner was part of the unlawful assembly which came to the spot and thereafter attacked the complainant party. Learned State counsel has also not disputed that the deceased was the author of the FIR in question and did not make any supplementary statement regarding the involvement of the



petitioner till his death on 06.07.2021 and it was only after his demise that the petitioner came to be nominated as an accused in the present case on the basis of a supplementary statement made by Gurvinder Singh. Learned State counsel, on instructions, has also not disputed that the petitioner has no other criminal antecedents and the next date fixed before the trial Court is 13.09.2024 when 53 prosecution witnesses are likely to be examined. However, learned State counsel has reiterated the allegations levelled in the FIR in question, which stands reproduced hereunder:

“It is stated that I am resident of above mentioned address and do agriculture and also a Kabaddi Player. Some days before a rooster was picked up by Gagna Singh and Babbu Singh son of Gela Singh, resident of Chauke from the house of my uncle Makhan Singh son of Kartar Singh. Owing to this reason, my uncle Makhan Singh made complaint to Gela Singh. For this complaint, Babbu Singh and Gagna Singh feel jealous. I used to help my uncle Makhan Singh. Yesterday on 26.5.2021 we had an altercation with Gagna Singh and Babbu Singh and they threatened me that they will see me then at about 6/7 p.m. in the evening I along with my friend Satpal Singh son of Binder Singh, Jaswinder Singh @ Jassa son of Bant Singh, Hardeep Singh @ Deepi son of Teja Singh, Satpal Singh @ Kala son of Naib Singh, residents of Chauke, my friend Boota Singh son of Balwinder Singh, resident of Chauke were talking with each other by sitting on the motorcycle at Pithon road, then Gurjeet Singh son of Binder Singh armed with Gandasa, Babbu Singh son of Gela Singh armed with Dang, Gagna Singh son of Gela Singh armed with Kirpan, Seepu Singh son of Binder Singh armed with baseball and Keepa Singh son of Darshan Singh armed with pistol, residents of Chauke came in the field and started raising lalkaras then Boota Singh and Satnam Singh due to fear ran away from the spot. Meanwhile, the above mentioned persons started beating us. Keepa Singh above mentioned pointed his pistol towards me and then Gurjeet Singh who was holding



Gandasa in his hand hit Gandasa blow upon my right leg below the knee and I fell down. While I was lying down Seepu Singh hit baseball blow upon my left leg; Babbu Singh hit dang blow on my left hand. Thereafter, Gurjeet Singh gave Gandasa blow from its reverse side upon my left shoulder, thereafter, to rescue me Jaswinder Singh, Hardeep Singh and Satpal Singh came forward then Satpal Singh received kirpan blow upon his left hand and Gandasa blow from its reversed side upon his right leg given by Gurjeet Singh and Seepu Singh gave baseball blow upon his left knee and thereafter Gurjeet Singh gave gandasa blow on left leg ankle of Satpal. Thereafter, Hardeep Singh also received injuries on his left arm, right knee, backside, left arm and right hand caused by the above mentioned persons with their respective weapons and Jaswinder Singh @ Jassa also received injuries on his left arm with Gandasa given by Gurdeep Singh, dang blow on head by Babbu, baseball blow on backside of head by Seepu and dang blow by Babbu, thereafter, Boota Singh and Satnam Singh above mentioned raised raula after going at some distance and we also raised raula 'Marta Marta'. 15/20 more unknown persons were also with them, who raised lalkaras. Upon raising our raula, they all ran away from the spot along with their respective weapons and while going they also damaged my motorcycle without number make CT100, motorcycle of Satpal Singh's make CT100, motorcycle of Jaswinder Singh @ Jassa make Splendor of silver colour and motorcycle of owner of the field namely Boota Singh make CD DOWN bearing No.9751 with dangs. Thereafter, our relatives after arranging conveyance got us admitted in Civil Hospital, Rampura for treatment. Motive is that at day time an altercation took place between me and Babbu, Gagna sons of Gela Singh, residents of Chauka in respect of cock. Owing to this reason, the above mentioned persons have us injuries. We are claimants. Sd/- Action be taken. I have got recorded the statement, heard and is correct. Sd/- Harwinder Singh above mentioned statement corroborated by Sd/- Satpal Singh son of Binder Singh, resident of Chauke (injured) Sd/- Harwinder attested by Sd/- Lakhwinder Singh ASI, PP Chauke, Police Station Sadar Rampura Dated 27/5/21”



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

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as other than being shown to be present along with the co-accused, no role or injury much less any *lalkara* has been attributed to him.

6. Accordingly, the instant petition is allowed and the petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. 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.

7. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

(MANJARI NEHRU KAUL)
JUDGE

September 10, 2024
poonam

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