

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47620 of 2023
Reserved on:22.02.2024
Pronounced on: 23.02.2024

Kuldeep SinghPetitioner

Vs.
State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Dr. Rau P.S. Girwar and Ms. Archana Arora, Advocate
for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

DEEPAK GUPTA, J.

By way of present petition filed under Section 439 Cr.P.C., petitioner has prayed for his release on regular bail in case GD No.32 dated 12.05.2023 registered under Sections 341, 323, 34 IPC at Police Station Sadar Rampura, Bathinda [Section 302 IPC added vide GD No.20 dated 19.05.2023] registered at Police Station Sadar Rampura in case FIR No.27 dated 11.05.2023 registered under Sections 452, 341, 323, 324, 506, 336, 427, 148, 149 IPC; and Sections 25 & 27 of Arms Act, 1959 at Police Station Sadar Rampura, Bathinda.

2. Status report by way of affidavit dated 22.02.2024 of Shri Pritpal Singh, Deputy Superintendent of Police, Sub Division Phul, Bathinda, has been filed on behalf of the respondent- State.

3.1 It is revealed that FIR No.27 dated 11.05.2023 under Sections 452, 341, 323, 324, 506, 336, 427, 148, 149 IPC besides Sections 25 & 27 of Arms Act, 1959, was registered at Police Station Sadar Rampura, Bathinda

on the complaint of Kuldeep Singh (*present petitioner*) against Vatta Singh

and various others. It was alleged that on 10.05.2023, at about 06:00 PM, petitioner – Kuldeep had gone to a Dairy of his village to supply milk. He was at a little distance from his house, when Vatta Singh, Shisan Singh, Jeeta Singh, Babbu Singh and Binder Singh, all armed with weapons (except Binder Singh who was empty handed), all residents of Village, surrounded him and started abusing him for stopping them from sitting in the street. Due to fear, petitioner came to his home and locked the main gate of the house. It was alleged that at about 07:00 PM, the afore-said persons, i.e. Vatta Singh etc., along with Manpreet Singh alias Bogha armed with pistol, Gyan Singh and Ranu entered the house of the petitioner, carrying stones in their hands. It was alleged that various accused as named in the FIR not only started throwing bricks and stones but further caused injuries to petitioner – Kuldeep on various parts of his body and his father Malkeet Singh. As they raised alarm, petitioner's wife Jaspreet Kaur, reached the spot but she was pushed by accused Manpreet Singh alias Bogha. The assailants also damaged bike of the petitioner. Manpreet Singh alias Bogha also took out his pistol and fired shots in the air and then fled away.

3.1 MLR dated 10.05.2023 of petitioner – Kuldeep Singh revealed three injuries on his person caused by blunt weapon. Malkeet Singh, the father of petitioner was found to have sustained four injuries, out of which two were caused by sharp edged weapon and two by the blunt weapon.

3.2 On 12.05.2023, a cross case bearing DDR N.32 under Sections 341, 323/34 IPC was registered in the afore-said FIR against the present petitioner – Kuldeep Singh alias Nikka Singh, his father Malkeet Singh and their accomplice Gursewak Singh alias Gogga on the statement made by Bantu son of Karam Singh, as per which, on 10.05.2023, at about 05:00 PM, petitioner along with his co-accused surrounded Gobind Singh alias Vatta,

the brother of complainant Bantu Singh. As Bantu Singh along with his mother and uncle Makhan Singh reached the spot, they noticed that Malkeet Singh & Gogga were beating Gobind Singh alias Vatta with sticks. When his family members tried to save him, Malkeet Singh gave blow with stick on the head of Bantu's mother Amritpal Kaur and also on other parts of her body. Petitioner & his father gave several blows on various parts of the body of Bantu. Petitioner also gave *Gandasa* blow on the head of Makhan Singh. On the alarm raised by Bantu Singh and others, the assailants including petitioner fled away.

3.3 The MLR of Makhan Singh revealed one injury on his head, which was kept under observation. Three injuries by blunt weapon were found on the person of Amritpal Kaur, the mother of complainant Bantu Singh of the DDR. The MLR of Bantu Singh revealed five injuries to have been inflicted on his person, which were kept under observations.

3.4 During course of investigation, information was received on 19.05.2023 that Makhan Singh had succumbed to the head injury. At this, Section 302 IPC was added in the cross-case i.e. DDR No.32 dated 12.05.2023 vide separate DDR No.20 dated 19.05.2023. The post mortem examination of Makhan Singh was got conducted. Cause of death was opined to be cardio-respiratory arrest due to the injury to the vital organ i.e. Brain, which was sufficient to cause death in the normal course of nature.

3.5 On 19.05.2023 itself, petitioner – Kuldeep Singh along with his accomplices Malkeet Singh and Gursewak Singh were arrested in the cross-case i.e. DDR No.32 dated 12.05.2023. The disclosure statement of co-accused Gursewak Singh resulted in recovery of the weapons used in the crime. After completion of investigation, final report under Section 173 Cr.P.C has already been filed before the Court concerned.

4. It is contended by learned counsel that the petitioner has been falsely implicated in the cross DDR and that it is the petitioner and his family members, who were caused injuries by the assailants by entering his house and by throwing bricks etc., which even resulted in the death of cow of the petitioner. The FIR was lodged on the statement of petitioner, prior in time and that later on, Police manipulated the proceedings by registering DDR No.32 dated 12.05.2023 and by nominating the petitioner and his family members. It is contended further that the case of petitioner directly falls under the self defence to protect the life of family members, property and cattle from the bricks, which were being thrown by accused of FIR No.27 dated 11.05.2023. It is also contended that injured – Makhan was not available in the Civil Hospital, Bathinda and had died after ten days and that whole story has been manipulated. Shoddy investigation has been conducted by the Police and all the family members of the petitioner have been implicated. Learned counsel contends further that the various accused as named in the FIR No.27 dated 11.05.2023, have already been allowed anticipatory bail by way of the various orders passed by the Court of learned Additional Sessions Judge. It is also contended that the petitioner is in custody for the last more than 09 months; and that the trial may take long time to conclude and so, in all these circumstances, he be allowed bail.

5. Strongly opposing the bail petition, learned State Counsel submits that the petitioner is mainly attributed to have inflicted *Gandasa* blow on the head of the deceased – Makhan which resulted in his death and the same fact is corroborated by the medical evidence. Learned State Counsel also submits that in case petitioner is allowed bail, he may try to influence the witnesses. Gravity of the offence is also pointed out. Prayer is made for dismissal of the petition.

6. Heard.
7. No doubt, petitioner and his father were found to have sustained injuries as per the MLRs prepared on 10.05.2023 but at the same time, there are clear allegations that petitioner, during the course of occurrence, inflicted *Gandasa* blow on the head of Makhan, which has resulted in his death. It will be a matter of trial as to whether petitioner exceeded the right of self defence. The trial is at the initial stage, as only the charges have been framed so far as per the status report. Charge against the petitioner is quite grievous.
8. Looking into all the facts & circumstances of the case, particularly the attribution to petitioner and the gravity of the offence, but without commenting on the merits of the case, this Court is not inclined to grant benefit of regular bail to the petitioner.

Dismissed.

February 23, 2024

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Whether Speaking/reasoned

Whether Reportable

(DEEPAK GUPTA)

JUDGE

Yes/No

Yes/No