



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-47983-2024 (O&M)
Reserved on: 03.12.2024
Pronounced on: 05.12.2024

BALRAJ SINGH
Vs.
STATE OF PUNJAB
... .PETITIONER
... .RESPONDENT

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr.Vivek K. Thakur, Advocate, for the petitioner.
Mr.Rajiv K. Takkar, DAG, Punjab.
Mr.J.S. Ghumman, Advocate, for respondent No.2.

DEEPAK GUPTA, J.

By way of this petition filed under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (old Section 439 CrPC), petitioner prays for his release on regular bail in case FIR No.20 dated 14.02.2022 registered under Sections 302, 307, 341, 201, 427, 148 and 149 IPC at Police Station Subhanpur, District Kapurthala.

2. It is his second petition. The first petition bearing CRM-M-64329-2023 was dismissed as withdrawn vide order dated 07.05.2024 (Annexure P12).

3. FIR was lodged on the statement of Amandeep Singh S/o Harpreet Singh, as per which on 14.02.2022, he had gone to attend the wedding of a co-villager Sukhvir Singh. At about 4.30 p.m., he noticed two boys, namely, Rohit and Lovepreet being beaten by three other boys, namely Manpreet, Jashan and Balraj (*petitioner herein*) and one more boy of village Bamuwal (later on identified as Malkit Singh). As complainant asked them not to fight as wedding was getting spoiled, Jashan, Manpreet and Balraj hit iron kadas (bracelets) on his head. He telephonically called his uncle Manpreet Singh @ Whisky (deceased), who came in his Maruti car and took him along with Rohit and Lovepreet to the hospital. However, on the way near Nadala chowk, Balraj Singh (*petitioner*), Manpreet @ Manna, Jashan @ Neri, Malkiat Singh @ Landi, Heera, Karan and some unknown boys waylaid them and surrounded the car. They were wearing iron bracelets and broke the glass of the car and brought them outside the car and started beating them with iron kadas. It was further stated that Balraj Singh (*petitioner*) and Heera

started beating his uncle Manpreet Singh @ Whisky. Balraj Singh with full force gave a blow with iron kada on the left cheek of his uncle under the eye, due to which he became unconscious. All the assailants started kicking him, threw him on the ground and attacked him with iron kadas. Balraj and Heera also gave blows on his head with iron kadas and Karan gave beatings to him, whereas Manpreet Singh twisted the little finger on his hand, which was broken. They also gave beatings to Rohit and Lovepreet. They raised alarm. People gathered and assailants fled away.

4. Manpreet Singh @ Whisky expired during treatment. Necessary investigation was carried out, during which statements of injured were recorded. During investigation, postmortem of deceased Manpreet Singh @ Whisky was conducted at Civil Hospital, Kapurthala, which revealed four injuries on his person. One injury was found on the person of injured Rohit, as per the medico legal report; whereas two injuries were found on the person of injured Lovepreet.

5. Petitioner-Balraj Singh was arrested on 16.02.2022 and recovery of iron kada was effected from him. On the basis of an application moved by mother of said Balraj, he was medico legally examined and his MLR revealed two injuries on his person, which were declared simple and vide DDR No.23 dated 21.02.2022, cross version of the FIR was recorded under Sections 323, 341, 506, 148 and 149 of IPC. In the supplementary statement made by complainant Amandeep on 20.02.2022, he named Malkeet Singh to be one of the assailants. Accused Jashanpreet Singh was apprehended on 21.02.2022 and on the basis of disclosure statement suffered by him, an iron kada was recovered. Accused Kuldeep Singh @ Heera was apprehended on 28.02.2022.

6. It is contended by Id. counsel for the petitioner that out of the four injuries found on the person of the deceased as per the postmortem report, only one injury on the left cheek under the eye is attributed to the petitioner. It is submitted that it is a case of version and cross-version inasmuch as petitioner also suffered two injuries as are evident from the Medico Legal Report (Annexure P8) placed on record and that on his version, DDR was recorded. Id. counsel further contends that co-accused Manpreet Singh @ Manna has not been arrested till date. PO proceedings were initiated against him. Prosecution has cited as many as 34 witnesses. After the examination-in-chief of PW1-Amandeep Singh i.e. complainant of the case, an application under Section 319 CrPC was moved, which was allowed on 08.08.2023 and Manpreet Singh @ Manna was ordered to be summoned as an additional accused. It is also submitted that said Manpreet Singh

@ Manna has filed a revision before this Court, which is still pending. Apart from this, except the petitioner all other five accused challaned by the Police have already been granted bail by this Court including co-accused Kuldeep Singh @ Heera, who was also attributed to have caused injuries to the deceased along with petitioner. Still further it is submitted that petitioner is in custody for the last 2 years and 9 months and that petitioner has no other criminal antecedents. Considering the long list of prosecution witnesses and the fact that case is still fixed for procuring the presence of co-accused Manpreet Singh @ Manna, who has been summoned under Section 319 CrPC, trial is likely to take long time to conclude and so in all these circumstances, he be allowed bail.

7. Refuting the aforesaid contentions, Id. State counsel along with counsel for the complainant opposed the petition by pointing out that petitioner is one of the main assailants, who had given kada blow to the deceased-Manpreet Singh and that injuries caused by him and co-accused resulted to his death. It is also pointed out that it is the petitioner who along with Kuldeep Singh @ Heera had taken the deceased out of the car and then had assaulted him. Id. counsel for the complainant also placed on record examination in chief of PW1-Amandeep Singh, in which he has attributed the injuries to deceased on the part of the petitioner after taking him out of the car.

Prayer is made for rejecting the petition having regard to the nature of allegations against the petitioner.

8. I have considered submissions of both the sides and have appraised the record carefully.

9. It is no doubt true that petitioner is alleged to be the main assailant who took the deceased out of the car and assaulted him along with the other co-accused, but this court cannot be oblivious to the fact that as of now the custody period of the petitioner is 2 years 9 months and 11 days as per the custody certificate placed on record. He is not involved in any other case. Trial is not proceeding ever-since passing of the order dated 08.08.2023 by the trial Court, whereby co-accused Manpreet Singh @ Manna has been summoned under Section 319 CrPC. His presence has not been procured till date. There is a long list of 34 witnesses cited by the prosecution and the trial is likely to begin only after procuring the presence of additional accused Manpreet @ Manna. Apart from this petitioner also sustained injuries in the same occurrence as is evident from the MLR placed on record and on his statement, a cross-case was registered against the

complainant-party. Besides this, all other five accused including Kuldeep Singh @ Heera have already been allowed bail from time to time.

10. Having noticed all the above facts and circumstances, but without commenting anything further on merits of the case, petition is allowed. Petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, on usual terms and conditions.

Pending application(s), if any, also stand disposed of.

05.12.2024
Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?	Yes
Whether reportable?	No