

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

CRM-M-51721-2024
Reserved on: 13.11.2024
Pronounced on: 26.11.2024

Amrit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gurbir Singh Sidhu, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
93	21.07.2023	Tappa Mandi, Barnala	302/452/323/506/34 IPC

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail.
2. In paragraph 8 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the short reply filed by the State, which reads as follows:

“2. That the instant case was registered on the statement of Surjit Kaur wife of Gate Singh on the allegations that on 16.06.2023, she along-with her husband Gate Singh, grand-son Dharminder Singh and daughter in law Paramjit Kaur were present in the house. It was at about 03:45 PM, Amrit Singh (present Petitioner) and Bhag Singh @ Bhola Singh armed with sticks came in front of their house and started abusing his grand-son Dharminder Singh by saying that he is obstructing them for doing their work and they would teach him a lesson. That she along with her husband and daughter in law tried to stop them from doing so. Upon this, said persons attacked them with their sticks. That Amrit Singh (Present Petitioner) gave stick blow in the head of her husband and Bhola Singh also inflicted stick blow upon her husband, which hit on right jaw of her husband and also caused other injuries on the body. When she came forward to rescue her husband, Amrit Singh (Present Petitioner) inflicted stick blow on her head and Bhola Singh inflicted stick blows on

her body. On account of injuries, she and her husband fell on the ground and raised the alarm. Her daughter in law and grand-son Dharminder Singh also raised the alarm, upon which both the accused persons ran away from the spot along with their respective weapons. While leaving the spot, the accused YOUT OF T persons also threw brick bats towards them and one of brick hit on his grandson. That her daughter in law and grandson got them admitted at Civil Hospital, Tapa and from where, her husband was referred to higher institute. That her treatment was undergone at Civil Hospital, Tapa and she was discharged from the hospital after 5/6 days, whereas her husband was got admitted at Civil Hospital, Faridkot by her relatives and he remained admitted for 22 days over there and then discharged from the hospital. During treatment at Civil Hospital Faridkot the statement of her husband was also got recorded by the police. That on account of the injuries sustained by her husband on head, his condition become deteriorated after some days and they got him admitted at Civil Hospital, Tapa, however on 20.07.2023 her husband got discharged from the hospital against medical advice, but as his condition was not good, at about 8 PM, they again brought him to hospital and he had died on account of the injuries sustained by him. That the death of her husband took place on account of the injuries caused in the head by accused persons. On this statement, present FIR was registered against Amrit Singh (present Petitioner) and Bhag Singh @ Bhola Singh. That earlier in pursuance of medical ruqa dated 16.06.2023 as to the admission of deceased Gate Singh s/o Sadhu Singh and injured Surjit Kaur w/o deceased Gate Singh, DDR No. 31 dated 21.06.2023 was recorded. The above DDR was recorded on the basis of the statement suffered by deceased Gate Singh, wherein as per the statement and the medical record, since no cognizable offence was made out, the same was kept pending for further action after receipt of injury report and inquiry at the spot.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the short reply.

6. It would be appropriate to refer to the following portions of the short reply, which read as follows:

“6. That the accused persons were arrested on 24.07.2023 and during investigation they suffered disclosure statement U/s 27 of Indian Evidence Act and got recovered the sticks (daangs) used in the said offence under. That after completion investigation challan was presented in the Ld. Court on 20.10.2023. That charges against the accused persons were framed on 20.08.2024 and total number of prosecution witnesses are 21 and at present the case is fixed for prosecution evidence on date 02.12.2024 in the Court of Ld. Additional and Sessions Judge, Barnala.

ROLE OF THE PRESENT PETITIONER:

8. That on 16.06.2023 at about 3.45 PM petitioner armed with 'daang' along with his co-accused Bhola Singh who was also armed with 'daang' started abusing while standing in front of the house of complainant. The petitioner Amrit Singh gave blow of

his 'daang' which hit on the head of Gate Singh. That the deceased Gate Singh received injuries on his person. Injuries in the scuffle were also sustained by complaint and her grandson.

EVIDENCE AGAINST THE PRESENT PETITIONER:

9. *That apart from the statement of the complainant, other eye witnesses namely Dharminder Singh son of Pappi Singh and Paramjit Kaur wife of Pappi Singh have eye witnessed the entire occurrence. During investigation of the case, petitioner suffered a disclosure statement U/s 27 of Evidence Act to the effect that on 16.06.2023 they had entered into an altercation with Gate Singh and the 'daang' which he had used, had been kept concealed by him in the room meant for storing wheat straw for feeding animals and only he has the exclusive knowledge of the same, and Further that he can get the same recovered. Thereafter during investigation on the basis of his disclosure statement petitioner Amrit Singh, he got recovered the said 'daang' used in the commission of the offence."*

7. The alleged assault took place on 16th June 2023, whereas neither the injured nor the complainant or the hospital informed the police. After more than a month, on 21st June 2023, the injured Gate Singh expired.

8. It shall be appropriate to extract the reasons recorded in the postmortem report regarding the cause of death, which read as follows:

"5. That as per the Post mortem report bearing number PMR/SPL/01/LM/SD//KDS/2023/CH, BNL dated 21.07.2023 of the deceased was, "The cause of death to be given after the report of chemical examination from Kharar lab and Histopathology report from Rajindra Hospital". (ANNEXURE-R-4). That after going through the Histopathology Report of heart tissues of deceased Gate Singh (ANNEXURE R-5) and Chemical report of viscera parcel (ANNEXURE-R-6) board of doctors opined that, "In case of deceased Gate Singh s/o Sadhu Singh PMR No. PMR/SPL/01/LM/SD/KDS/2023/CH, Bnl, report of chemical examiner to Govt. of Punjab dated 5/10/2023 bearing dispatch no.4072 reveals No poison detected and Histopathology report of Heart from AIIMS, Bathinda suggestive of focal area of calcification in left coronary artery and Partial autolytic changes in left ventricular wall, left coronary artery, Rt. ventricular wall & Rt. Coronary artery. After Reviewing the clinical record, Report from chemical examiner & Histopathology report Board of doctors is of opinion that Cause of death in this case cannot be ascertain However Possibility of Cardiac arrhythmia cannot be ruled out". (ANNEXURE-R-7)."

9. An analysis of the above does not justify further pre-trial incarceration at this stage.

10. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. This order is subject to the petitioner's complying with the following terms.

14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall not enter the victim's family's property, workplace, and residence until the statements of all non-official and informal witnesses in the trial are recorded. This Court is imposing this condition to rule out any attempt by the accused to incapacitate, influence, or cause any discomfort to the victim. Reference be made to *Vikram Singh v Central Bureau of Investigation*, 2018 All SCR (CrL.) 458; and *Aparna Bhatt v. The State of Madhya Pradesh*, 2021:INSC:192, 2021 SCC Online SC 230.

16. Given the background of allegations against the petitioner, it becomes paramount to protect the victim's family members, as well as the members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearm(s). [This restriction is being imposed based on the preponderance of evidence of probability and not of evidence of certainty, i.e., beyond reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act,

1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules. Restricting firearms would instill confidence in the victim(s), their families, and society; it would also restrain the accused from influencing the witnesses and repeating the offense.

17. The conditions mentioned above imposed by this court are to endeavor to reform and ensure the accused does not repeat the offense. In *Mohammed Zubair v. State of NCT of Delhi*, 2022:INSC:735 [Para 28], Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

18. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

19. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

20. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

21. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

26.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.