

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-55401-2023

Date of Decision:-29.02.2024

Harvinder Singh @ Happy @ Harinder Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Shiv Kumar Sharma, Advocate for the Petitioner.

Mr. Deepinder Singh Brar, Senior Deputy Advocate General,
Punjab.

Mr. Yadwinder Singh, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in FIR No.243 dated 28.11.2021 under Sections 307, 395, 458, 323, 148, 149 IPC registered at Police Station Bhawanigarh, District Sangrur, Punjab.

2. The present FIR came to be registered at the instance of Dharampal son of Sh. Kishori Lal which reads as under:-

“ At this time statement Dharmapal son of Kishori Lal, resident of village Channo, police station Bhawanigarh, district Sangrur, aged about 55 years, mobile number 98557-35017, stated that I am a resident of the said address and doing private business. I have JCB machines, tractors and also sell sand and gravel seats. I along with my family live in our house opposite the PepsiCo factory Channo. I have two shops in front of my house which I have rented out to contractors for the sale of liquor and

premises. While my son Pawan Kumar and I look after our work and transactions related to the business and my other sons Ashok Kumar and Sunil Kumar look after their other businesses. Yesterday on 27-11-2021, me and my son Pawan Kumar after doing calculations of all the transactions from my office went inside the house with a total of 33 thousand rupees in the envelope which was held in my hand. My other son's Sunil and Ashok were already present in the house when it was around 8 pm. my son Pawan Kumar went inside. I closed the gate and as soon as I closed the gate, someone knocked our gate when I opened the gate, at that time the light was on, then outside the gate Harvinder Singh alias Happy son of Jarnail Singh resident of Channo Rod in his hand along with Saranpreet Singh @ Simmi son of Harvinder Singh, Rod Loha in his hand, Daljinder Singh alias Jinder son of Chamkaur Singh resident of Lakhewal, Navdeep Singh alias Nawi son of Inderjit Singh resident of Bhima Kheri, stick in his hand. Gurpreet Singh resident of Gajewas, Rod in his hand and Satgur Singh alias Ladi son of Bhupinder Singh resident of Barsat, whom I already know that because of my business, I am often acquainted with the people of the nearby villages and three other unknown persons who were empty handed, forced their way into our house. Harvinder singh @ happy said to me that you was earning a lot, took our share too, so I told them that you have earned by hard work, so Harvinder Singh @ Happy came in a rage and held an iron rod on my head with the intention of killing me. Saranpreet Singh alias Simmi also hit me on the head with the iron in his hand with the intention of killing me which hit the back of the head. I shouted" Daljinder Singh @ Jinder also punched me in the chest. Hearing my raula", my son Pawan Kumar came who was held back by Daljinder Singh alias Jinder and Harvinder Singh alias Happy, they hit my son Pawan Kumar with an iron rod in his hand which hit his lower lip and lower tooth and Saranpreet Singh alias Simmi also hit my son Pawan Kumar on the head with an iron rod held in his hand which hit him on the right side of the head. Then Gurpreet Singh also put an iron rod in his hand and hit on the left arm of my son Pawan Kumar. Then Daljinder Singh @ Jinder pushed my son and threw him down. Navdeep Singh @ Navi hit the right wrist of my son Pawan Kumar with the stick in his hand. So we both fought to save ourselves, After hearing the

shouting. my two sons Ashok Kumar and Sunil Kumar also came who started to save us from them. Harvinder singh @ Happy hit Ashok kumar with rod on his Right arm, Gurpreet Singh hit his left knee with iron rod, Daljinder Singh aka Jinder punched lower leg. Saranpreet Singh alias Simmi hit iron rod on right wrist and on left thigh. Then Navdeep Singh @ Navi hit my son Sunil Kumar on the head with the stick he was holding in his hand with the intention of killing him. Harvinder Singh Happy also slapped Sunil Kumar several times in the back. Three unknown persons, one of whom was from the village of Kulburcha, but I do not know his name, but I can identify them, who also insulted us and beat us with their legs. Sarnpreet Singh @ Simmi suddenly snatched 33 thousand rupees from my hand. There was a lot of shouting in our house due to which a gathering of people came out of our house after seeing the gathering of men who came out of our house and parked car on service road car number PB 13 BK 1337 Marka Swift, and a black colored one, XUV car and motorcycle number PB 11 AL 3387 started escaping, then in haste, the Swift car hit a standing truck while backing up, which caused a lot of damage to the car, leaving his own car with the same number, took his weapons and 33 thousand rupees stolen from me and ran away in a black car and a motorcycle. Then Gurwinder Singh and Gurdayal Singh resident of Channo arranged a ride and got him admitted to CHC Bhawanigarh for treatment. Where doctor sent us to Rajindra Hospital, Patiala Because my son Pawan Kumar had more injuries, we sent him to DMC, Ludhiana was sent for treatment and our remaining three are being treated at Rajindra Hospital, Patiala.”

3. The learned Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The allegations levelled against the accused including the petitioner are baseless. Sections 458 and 395 IPC have been deleted. No recovery of any iron rod had been effected from the petitioner. As the petitioner was in custody since 04.08.2023 but none of the prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and

therefore, he was entitled to the concession of bail.

5. The learned Counsel for the State has filed short reply by way of affidavit of Mr. Gurdeep Singh, PPS, Deputy Superintendent of Police, Sub Division, Bhawanigarh, District Sangrur in the court today, which is taken on record. While referring to the said reply, he along with the counsel for the complainant contend that the petitioner caused simple injuries and grievous injuries on the person of Ashok Kumar, Pawan Kumar, Dharampal and Sunil Kumar. The nature of the allegations levelled against the petitioner did not entitle him to the grant of bail. He however, concedes that the petitioner was in custody since 04.08.2023 and none of the prosecution witnesses had been examined so far.

6. I have heard learned Counsel for the parties.

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 04.08.2023 and none of the prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Harvinder Singh @ Happy @ Harinder Singh** son of Sh. Jarnail Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.
11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 29, 2024
Vinay

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