



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

240

CRM-M-53071-2024
Date of decision: December 3rd, 2024

Kumari Damini and another
.....Petitioners

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jasraj Singh, Advocate
for the petitioners.

Mr. Shiva Khurmi, Assistant Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioners are seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.39 dated 06.03.2023 under Sections 302, 307, 324, 323, 148, 149 and 506 of the IPC registered at Police Station Sadar, District Hoshiarpur.

2. Learned counsel for the petitioners submits that the petitioners are real sisters; a perusal of the FIR question, which has been annexed as Annexure P-1, reveals that although they have been named in the FIR in question, however, no role much less any injury has been attributed to them either on the person of the deceased or even the complainant, who was alleged to be present at the time of the crime in question. Learned counsel has submitted that *prime facie* it appears that it was an account of a trivial dispute that the occurrence in question took place, however, for reasons but obvious, the complainant party had tried to implicate the entire family of the accused, including the petitioners,

who are unmarried daughters of one of co-accused Sunil Kumar. It has been further asserted by the learned counsel that all the material witnesses including the complainant as well as another eyewitness, father of the deceased, have since been examined, hence, further incarceration of the petitioners would serve no useful purpose as 24 prosecution witnesses still remain to be examined. It has also been argued by the learned counsel that even in their deposition, both the material witnesses, who stand examined, have not attributed any injuries to the petitioners much less fatal and the only role, if any, attributed to the petitioners is of having pushed the complainant and his father back with the sticks that they were holding.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed the custody period of the petitioners nor has he, on instructions from ASI Sewa Dass, disputed the stage of trial. However, learned State counsel has reiterated the allegations levelled in the FIR in question, which stands reproduced hereinunder:

“Statement of Vijay Kumar, son of Anoop Kumar, resident of Jahan Khelan, Balmik Mohalla, Police Station Sadar, Hoshiarpur, aged about 23 years, phone 90419- 93325. Stated that I am resident of above-mentioned address and working in Sonalika Farm, Tharoli. We are three brothers, elder Rohit, younger Amit and I am the youngest one. Amit is married and the rest of us are single. Amit also works with me. We have kept cattle and our neighbour Chiranji Lal, son of Jalla Ram, resident of Jahan Khela, Police Station Sadar, Hoshiarpur, has also kept cattle. Chiranji Lal's family leaves their cow loose and their cow comes with our cattle and eats fodder and disturbs our cattle. About which my father told Chiranji Lal and his family several times that you should not leave the cow loose which eats the fodder of our cattle but they did not listen to us. On

04.03.2023, I, my father Anup Kumar and my brother Amit were standing on the chowk near our house in the evening, when it was around 8:30 PM in the evening, then Sunil Kumar, son of Chiranji Lal, was going to his house taking his cow from outside. So my father told him to keep it tied up as it eats the fodder of our cattle and disturbs our cattle. On this Sunil Kumar, started abusing us and went to his house by taking his cow along with him and at the same time, Sunil Kumar, armed with axe, his brothers Sonu, armed with iron rod, Parminder Kumar, armed with axe, Sunil Kumar's wife Neetu, armed with spade handle, Sunil Kumar's daughters Damini and Kamini and Chiranji Lal and his wife Raj all armed with dandas in their hands came towards us by raising lalkaras, at that time, lights were on in the street and as soon as they came, Chiranji Lal and his wife raised lalkara that catch them, they should not escape today. They harass us every day and meanwhile, with the intention of killing us, Sunil Kumar hit my brother Amit with the axe in his hand on his head and my brother fell down on the ground and the while he was lying down on the ground, Sonu gave second blow upon him with iron rod in his hand on the head and then Parminder Kumar hit my brother while he was lying down with the axe in his hand which hit his body. When my father and I came forward to rescue my brother, Damini and Kamini and Neetu pushed us back with dandas in their hands and Chiranji Lal and his wife started pelting bricks and stones upon us. Then Sunil Kumar hit me on the head with the axe in his hand with intention to kill me. I raised my left arm to defend myself which hit my left arm near the elbow and then Sonu hit me with iron rod in his hand which also hit me near left elbow and then all of them threw bricks and gave danda blows continuously upon me, my brother and father, which hit me on my chest, back, face and other parts of the body and body of my fallen brother Amit suffered lot of internal injuries and we all shouted kill-kill and as the people from the neighbourhood gathered around hearing our cry, all these accused persons ran away from the spot with their respective weapons by giving threats and then my brother Rohit and my friend Shambhu, son of Sant Ram, resident of Jahan Khela, arranged a vehicle and took us first to Civil Hospital, Hoshiarpur, for treatment, where

the doctor saw my brother's condition as serious and referred him to a bigger hospital and started my treatment and made the medical report and then discharged me after treatment in the morning and the doctor said that the MLR will be given through online. Then my family members took my brother Amit to IVY Hospital, Hoshiarpur, for better treatment where the doctors sent him to a bigger hospital and then my family members admitted him to the Government Hospital, Sector 32, Chandigarh, for treatment. Whereas my brother was under treatment in serious condition and during his treatment, he died in the evening on 05.03.2023 but I was not able to give a statement as I was not fully recovered. Reason of discord is that they used to leave their cows free which used to come and eat the fodder of our cattle and we used to tell them about it, that is why all these accused persons with inflicted injuries to my brother Amit and me with their deadly weapons with the intention to kill us and killed my brother Amit and inflicted me injuries. About which, today, I was coming to the police station along with my uncle (Fufar) Gurdeep Singh, son of Daan Singh, resident of Mohalla Ranjit Nagar, Hoshiarpur, to give information. You met, statement is recorded to you, which is read over and which is correct.”

4. On a pointed query, learned counsel has not disputed that the fatal injuries on the person of the deceased have been attributed to the co-accused and not to the petitioners, however, he has asserted that the petitioners were present at the spot armed with sticks and were part of the unlawful assembly.

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

6. The petitioners have been in custody since 08.03.2023 and 06.03.2023 respectively. All the material witnesses including the eyewitness and complainant to the occurrence in question stand examined and, therefore, there can be no possibility of petitioners intimidating/influencing the witnesses. Concededly, the petitioners have

not been attributed any fatal injury on the person of the deceased. Identically placed co-accused Chiranji Lal and Raj have already been extended the concession of bail by this Court vide order dated 26.09.2024.

7. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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.

December 3rd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No