

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-58681-2023 (O&M)
Date of Decision: 30.01.2024

Nirbhai SinghPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. G.S.Bedi, Advocate, for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab.

FIR No.	Dated	Police Station	Section/s
71	12.04.2020	P.S. Sadar Patiala, District Patiala	Sections 307, 323, 324, 326, 353, 186, 332, 335, 148, 149, 188, 427, 506 IPC; Section 51 of the Disaster Management Act and Section 3 of the Prevention of Damage to Public Property Act

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of aforementioned FIR.
2. The FIR in question was lodged at the instance of Inspector Bikar Singh, wherein it is alleged that on 12.04.2020 when he alongwith other police officials was present at the main gate of vegetable market then at about 5:30 a.m., a white coloured vehicle i.e. ISUZU D-MAX was signalled to stop by the employee of the Mandi Board, namely, Yadwinder Singh, who demanded a pass to be shown with regard to purchasing of vegetables from its driver, as there were restrictions in movement on account of spread of pandemic COVID-19. However, the Sikh driver who was Nihang forcibly took his

vehicle inside the vegetable market without showing any pass and later made a u-turn and hit against the main gate of the vegetable market and also hit against the barricades in an attempt to kill the employees standing there. However, the employees managed to save their lives by jumping to the side. However, when the vehicle stopped having stuck into the barricades, Balwinder Singh and his son Jagmeet Singh, residents of Village Amargarh, District Sangrur, currently residing at Dera Khichri Sahib, Bant Singh and Nirbhae Singh (petitioner), who were also stated to be residents of Dera Khichri Sahib accompanied by 2-3 unknown Nihang Sikhs alighted from the vehicle carrying swords and sticks and attacked the police party and employee of the Mandi Board. The driver of the vehicle namely Balwinder Singh gave a blow to ASI Harjit Singh with his sword aiming at his head, but ASI Harjit Singh in order to protect himself raised his left hand and resultantly his left wrist was absolutely chopped off and fell on ground. Balwinder Singh is alleged to have attacked ASI Harjit Singh several times.

3. It is further alleged that Nihang Bant Singh attacked Yadwinder Singh, employee of the Mandi Board with a sword. Nihang Nirbhae Singh (petitioner) attacked ASI Ragubir Singh with stick. The fourth Nihang Jagmeet Singh attacked the driver ASI Raj Singh with a sword hitting him on his right knee. Thereafter, all the Nihangs are also alleged to have attacked Inspector Bikar Singh. Nihang Balwinder Singh is also alleged to have given a blow with sword hitting Inspector Bikar Singh on his back. Nihang Jagmeet Singh is stated to have inflicted a blow with sword on the left elbow of Inspector Bikar Singh-complainant. Thereafter, all of them caused injuries with sticks and swords while he fell down and also caused more injuries to Harjit Singh and Yadwinder Singh. After causing injuries, said Balwinder Singh, Jagmeet Singh and other Nihangs ran away from the

spot alongwith their swords and sticks after reversing their vehicle and while issuing threats.

4. Learned counsel for the petitioner submits that he has falsely been implicated in the present case and that even if all the allegations, as leveled in the FIR, are taken to be correct, it is admittedly a case where the petitioner, who is alleged to be armed with a stick, had inflicted only 1 blow with the stick to ASI Raghubir Singh. It has been submitted that the petitioner has been behind bars for a substantial period of more than 3 years & 8 months and since the trial is not making any headway, his further detention will not serve any useful purpose.
5. Opposing the petition, learned State counsel has submitted that having regard to the serious nature of allegations, wherein the accused attacked the police officials during the period of pandemic Covid 19 and chopped off the wrist of one of the police officials on duty, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 3 years, 8 months & 20 days. It has further been submitted that as on date only 4 out of the cited 54 PWs have been examined. It has further been pointed out that the petitioner happens to be involved in one more case i.e. FIR No.45, dated 12.04.2020, Police Station Pasiona, under Sections 188, 307, 353, 186, 214, 270, 294, 148, 149 IPC; Section 54 of the Disaster Management Act; Section 25 of Arms Act; Sections 3, 4 of the Explosive Act and Sections 13, 16, 18, 20 of Unlawful Activity Act.
6. This Court has considered rival submissions.
7. While it is correct that serious allegations are leveled in the FIR inasmuch as one of the co-accused of the petitioner, namely, Balwinder Singh had chopped off the wrist of ASI Harjit Singh, but the present petitioner is stated

to be armed with a stick only and is stated to have inflicted 1 blow with the same to ASI Raghbir Singh. The petitioner has been behind bars for a substantial period of 3 years, 8 months & 20 days. The co-accused of the petitioner, namely, Bant Singh @ Kala has already been granted bail vide order dated 20.03.2023. In these circumstances, further detention of the petitioner will not serve any useful purpose as conclusion of trial is likely to consume time inasmuch as only 4 PWs out of cited 54 PWs have been examined so far. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

30.01.2024

Vimal

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**