



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

CRM-M No.63348 of 2023
Date of decision: 26th September, 2024

Charanji @ Chiranji Lal & another
... Petitioners

Versus

State of Punjab
... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jasraj Singh, Advocate for the petitioner.
Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.39 dated 06.03.2023 under Sections 302, 307, 324, 323, 148, 149, 506 of the IPC registered at Police Station Sadar, District Hoshiarpur.
2. Learned counsel for the petitioners contends that they are 75 years and 58 years old respectively; a perusal of the FIR annexed as Annexure P-1 reveals that the only role attributed to petitioner No.2 is of having instigated the other accused not to spare the complainant party. Learned counsel has further submitted that as per the allegations levelled in the FIR, the petitioners have just been attributed lalkara and brick-bat blows on the person of the complainant; no injury much less fatal on the person of the deceased has been attributed to either of them. Learned

counsel submits that since both the material witnesses i.e. the complainant and father of the deceased already stand examined, further incarceration of the petitioners would serve no useful purpose as 26 prosecution witnesses still remain to be examined. A prayer has therefore, been made for extending the concession of bail to the petitioners.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has reiterated the allegations levelled in the FIR, which is reproduced hereinbelow:

“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. Learned State counsel, on instructions from ASI Sewa Singh, has submitted that no doubt the fatal injuries on the person of the deceased have not been attributed to both the petitioners, however, they were named in the FIR in question and they were a part of the unlawful assembly. It has also been submitted that both the material witnesses i.e.

the complainant and father of the deceased, while deposing before the trial Court had supported the case of the prosecution in its entirety.

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

6. The petitioners have now been in custody for more than a year, having been arrested on 07.03.2023. The case at hand rests on eye-witness account and both the material witnesses i.e. the complainant and father of the deceased, who allegedly witnessed the occurrence in question, already stand examined, hence, there could now not be any apprehension of the petitioners intimidating/influencing the witnesses. The petitioners, as not disputed by the learned State counsel, have not been attributed fatal injuries on the person of the deceased, even though they were alleged to be armed with sticks.

7. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioners. The petition as such is allowed and the petitioners are admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

(MANJARI NEHRU KAUL)
JUDGE

September 26, 2024
rps

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