
(2020) 12 P&H CK 0220

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous Petition (M) No. 7044 Of 2020 (O&M)

Gurjant Singh @ Janti

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision: Dec. 10, 2020

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 311, 439
- Indian Penal Code, 1860 - Section 120B, 148, 149, 280, 302, 283, 307, 323, 325, 341, 506

Hon'ble Judges: Jasgurpreet Singh Puri, J

Bench: Single Bench

Advocate: G.K.Mann, Mehardeep Singh Dulat, Manuj Nagrath

Final Decision: Allowed

Judgement

Jasgurpreet Singh Puri, J

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail in FIR No.08 dated 16.1.2016,

under Sections 307, 323,325,506, 120-B, 148 and 149 IPC (Section 302 IPC added later on), registered at Police Station Doraha, District Khanna

(Ludhiana).

The facts which have come up in the present case are that the aforesaid FIR was lodged on the basis of the statement made by Darshan Singh son of

Gurdev Singh by stating that when he had gone to make a round of his land in the land which was adjoining to his land which was taken on lease by

Mewa Singh son of Kartar Singh (deceased) from Hoshiar Singh and the aforesaid Mewa Singh and his son Beant Singh were going to village after

harvesting fodder then at about 10:00 A.M., one tractor Swaraj 855 from the village side driven by Gurjant Singh @ Janti (petitioner) and Gurpreet

Singh, armed with kirpan, Gurjeet Singh @ Ghoti armed with handle of spade, Chamkaur Singh armed with handle of spade and Manjit Singh armed

with kirpan, were sitting on the sides of the tractor came there while raising lalkara and when they reached near the house of Bhag Singh, then

aforesaid Mewa Singh (deceased) and Beant Singh got frightened on seeing them and entered into standing crop, then Gurjant Singh @ Janti entered

into the field while chasing them and raised lalkara. In the meantime, Hazara Singh gave a dang blow on the head of Mewa Singh and he fell down

and meanwhile, the persons riding the tractor alighted from the tractor and started beating him with handle of spade, then Gurjant Singh @ Janti

(petitioner) with an intention to kill Mewa Singh drove over the tractor on Mewa Singh and the tractor hit into the wall of house of Bhag Singh after

running over Mewa Singh and Mewa Singh got injured. Thereafter, various other injuries were caused by other accused. This FIR was lodged on the

basis of complaint made by Darshan Singh in which 7 accused namely Hazara Singh, Jaskaran Singh, Gurjant Singh @ Janti (petitioner), Gurpreet

Singh, Gurjeet Singh @ Ghoti and Chamkaur Singh were named.

There was also a cross version registered in the aforesaid FIR on the basis of statement of Hazara Singh in which he levelled allegations on Mewa

Singh, Gurjit Singh, Shingra Singh, Jagjit Singh and Satnam Singh, that they were armed with kirpans and gandasis and Mewa Singh was standing in

the way and was obstructing the path with the help of 'rehra' tried to stop his brother and his brother ran away with the tractor and reached his house

and told the incident and in this way, a fight had taken place.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and in fact, the complainant party

was the main aggressor party and therefore, cross-version has also been registered in this case and accused in both the cases have been charged

under Section 307 IPC. She has further submitted that the petitioner is in custody since 18.1.2016 i.e. approximately for the last 4 years and 10 months

and the trial of the case is not progressing as only three prosecution witnesses have been examined in part. She has further submitted that for almost

2½ years, the trial is being delayed because of pendency of application under Section 311 Cr.P.C. for production of additional evidence and

therefore, it is a case where the petitioner is entitled for the grant of regular bail not only on the ground of long incarceration but also on the merits of

the case as well.

She has further submitted that out of 7 accused, main accused Hazara Singh who was attributed dang blow allegedly given on the head of Mewa

Singh, has already died. She has further submitted that so far as other accused are concerned, all of them are on bail. She has referred to Annexures

P5, P6, P7 and P8 vide which accused namely Manjit Singh, Chamkaur Singh, and Gurjit Singh have already been granted bail.

She has further submitted that the allegation against the petitioner was that he was driving the tractor and he had run over the deceased Mewa Singh.

She has further submitted that the story was purely concocted one in view of the post-mortem-report which she now has filed with the present petition

as Annexure P10. While referring to the aforesaid post-mortem-report, the learned counsel for the petitioner has contended that a perusal of the same

would show that the injuries which have been shown to have been inflicted on Mewa Singh were only either lacerated wounds or abrasions and

further some of the injuries are either 1 or 2 cms. She has submitted that a perusal of the post-mortem-report, does not, in any manner show that there

was any compression on the body of Mewa Singh and as such, the entire story of the prosecution would fall flat. She has further submitted that apart

from the same, the petitioner is in custody for the last 4 years and 10 months and there is no possibility of influencing the witnesses or tampering with

any evidence and therefore, no useful purpose would be served in case the petitioner is not released on bail and therefore, has prayed for the grant of

regular bail.

On the other hand, the learned State counsel has submitted that it was a case where deceased Mewa Singh had died due to the injuries and the

allegations are that the petitioner had driven the tractor over Mewa Singh. He has further submitted that the petitioner is also involved in other cases

and has referred to para 8 of the affidavit which has been filed by the State. However, a perusal of para 8 would show that out of 5 cases mentioned

in the affidavit, the petitioner has already been acquitted in three of them and out of the remaining two one pertains to Section 280 for which the

punishment provided is 'only fine' and the other one pertains to Sections 323, 324, and 341 IPC, which is still under trial. So far as custody of the

petitioner is concerned, the learned State counsel has not disputed the same and he has also not disputed that only three prosecution witnesses have

been examined in part. He has also not disputed that an application under Section 311 Cr.P.C. is still pending for the last more than two years. When a

query was put to the learned State counsel with regard to the nature of injuries on the person of deceased Mewa Singh as to whether there was any

compression or not, learned State counsel has submitted that it is a matter of record and nature of injuries can be seen at the time of trial. Still when

the learned State counsel was asked as to whether there is any evidence or material available with him that in case the petitioner is released on bail,

there is any possibility of influence of witnesses or tampering with the evidence or not, he has submitted that there is no material available in this

regard. However, the learned State counsel has opposed the bail on the ground that the matter is serious in nature and therefore, concession of regular

bail should not be granted to the petitioner.

Mr. Manuj Nagrath, Advocate, who has caused appearance on behalf of the complainant has also submitted that the matter is serious in nature and the

prosecution witnesses are yet to be examined and therefore, the petitioner should not be granted the concession of regular bail.

I have heard the learned counsel for the parties.

The undisputed position in the present case is that the petitioner is in custody for the last 4 years and 10 months and the trial is not progressing. An

application under Section 311 Cr.P.C. is still pending for the last 2 years and only three prosecution witnesses have been examined in part. One of the

accused namely Hazara Singh had already died and the remaining co-accused are already on bail. The allegations against the petitioner that he drove

tractor on the deceased are yet to be proved at the time of trial. The submission made by the learned counsel for the petitioner that the post-mortem-

report does not show any kind of compression on the body of the deceased is also a matter of trial and therefore, no comments can be made regarding

the same, at this stage. So far as petitioner being involved in other cases is concerned, the petitioner has already been acquitted in three of them and

out of the remaining two one pertains to Section 283 IPC for which the punishment provided is 'only fine' and the other one pertains to Sections 323,

324, and 341/34 IPC, which is still under trial.

The pendency of the other cases would not have any effect on deciding the present case particularly in view of the fact that it is not a case of the

State that in case the petitioner is released on bail, there is likelihood that he will be influencing any witnesses or tamper with any evidence. The long

incarceration of the petitioner which is 4 years and 10 months is a relevant factor for the purpose of considering the present petition for the the grant

of regular bail.

Therefore, without commenting anything upon the merits of the case, the present petition is allowed. It is ordered that the petitioner shall be released

on bail on his furnishing bail bond/surety bond to the satisfaction of the trial Court.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of

decision of present petition.