

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

**CRM-M-30440-2019
Date of Decision :24.04.2020**

Harmanpreet Singh @ Harman and another

... Petitioners

Versus

The State of Haryana

...Respondents

CORAM:HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. K.S.Khehar, Advocate for the petitioners.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Harish Mehla, Advocate for the complainant.

SUVIR SEHGAL, J.

Petitioners, namely, Harmanpreet Singh alias Harman and Manmeet Singh alias Monty, have filed the present petition seeking regular bail in FIR No.26 dated 14.03.2017, Annexure P-1, under Sections 148, 149, 285, 302, 364, 452, IPC, 1860 and under Section 25,54, 59 of the Arms Act, 1959, registered at Police Station Mansa Devi Complex, Panchkula.

The present FIR has been registered on the statement of Avtar Singh, son of Sardar Nirmal Singh wherein it has been alleged that Manmeet Singh alias Monty, petitioner no. 2, and his relation, Harman, petitioner no. 1, had fought with the complainant and caused injuries to him, regarding which FIR was registered about one and a half year back.

That case continued for 3-4 months in court and was compromised. It was alleged that on 13.03.2017 at about 6:49 PM, the complainant received a phone call from Manmeet Singh alias Monty, who threatened to kill him and his family, whereupon the complainant, who was out, came back to his house at Saketri, where five families are staying together. At 8-8.15 PM, the complainant heard gun shots and some noise near the main gate of his house. When he went out with his cousin Varinder Singh, aged 26 years, to check, he saw a group of 10 to 12 boys, among whom he recognised Manmeet Singh alias Monty and his cousin, Harmanpreet Singh alias Harman. Harman attacked Varinder Singh with a sword, while Manmeet Singh alias Monty and other boys gave blows with swords, Gandasis and Kirpans and also struck swords and Gandasis at the gate. They had come in vehicles and took his cousin, Varinder Singh and dragged him for about one kilometre from the village to the Sukhna Lake and left him there. The complainant alongwith Jai Singh and many other persons from the village went after them. They rushed Varinder Singh to PGI, Chandigarh, in a vehicle, where the doctor declared him brought dead. Both the petitioners were arrested on 15.03.2017 and the car used in the commission of the crime was recovered from Manmeet Singh alias Monty. The other accused were also arrested later.

Counsel for the petitioner has argued that the earlier FIR bearing No. 37 dated 27.05.2016 under Sections 323, 506, 34, IPC, Annexure P-2, which finds mention in the present FIR, had been registered against both the petitioners on the complaint of one Jaspreet Singh, resident of village Saketri, in which the petitioners were acquitted

by the Judicial Magistrate, Panchkula, vide judgment dated 16.11.2016, Annexure P-3, and there was no compromise between the parties, as has been alleged. He has referred to the report dated 13.04.2018, Annexure P-7, of the Forensic Science Laboratory, Haryana, to submit that no blood stains were detected on the swords (Ex. P-7, Ex. P-21 and Ex. P-22). He has made a reference to the evidence of Munendra, PW-13, Medical Officer, Civil Hospital, Sector 6, Panchkula, to submit that the doctor in his cross examination had deposed that no incised wound was mentioned by him in the Post Mortem Report, Ex. P-49, and that road dirt and grease was found on some of the injuries found on the person of the deceased. The same, according to this witness could be caused by a road accident. Reference has also been made to the deposition of Jai Singh, PW-1, to submit that even though he claimed that gun shots had been fired yet no bullet injury was detected on anyone. By referring to the detail of phone calls, Annexure P-9, received on the mobile of the complainant from mobile tower with its location in Sector 5 at Panchkula, counsel has urged that the complainant was not present at the place of the alleged occurrence and a false FIR had been registered against the petitioners. He has further placed reliance on the orders, Annexure P-6, passed by this Court whereby regular bail has been granted to the other co-accused.

Opposing the petition, State counsel, assisted by the counsel for the complainant, has argued that it was a pre-meditated act and the petitioners have played an active role in the macabre killing. The motive of the attack was the earlier FIR, which had been registered against the petitioners, wherein because of the compromise, the prosecution

witnesses did not support the version of the prosecution and the petitioners were acquitted. By referring to the testimony of the witness, Jai Singh, PW-1, and complainant, Avtar Singh, PW-7, it has been submitted that the gory incident has been narrated by both the witnesses, the manner in which the accused attacked Varinder Singh, with sword and Gandasi and caught him by his legs and dragged him to a car which had its number plate covered with yellow cloth and drove the car towards the Sukhna Lake. Further reference to the examination in chief of the said eyewitnesses has been made wherein it has been stated by them that when they could not chase the car of the accused on foot, they went after them in their own car and when they reached near the school chowk, they saw strips of blood, on the road leading to the Sukhna Lake and at the end of the drag marks, they saw the body of Varinder Singh, which was badly crushed. They took him to PGI, Chandigarh, where doctor declared him brought dead. It has been asserted that both the witnesses have withstood exhaustive cross-examination by the accused and, without faltering, have stood by their statements. Respondents' counsel point out that both the petitioners were arrested on 15.03.2017, but the swords were recovered on 21.03.2017, which gave ample time to the other accused to wipe the swords clean. According to the counsel, the presence of the complainant at the place of occurrence is not in doubt as the aerial distance location of the mobile tower of Sector 5, Panchkula, is about 2-3 km from the house of the complainant. He has referred to the call received by the complainant at 6.49 PM, from Manmeet Singh, who allegedly threatened the complainant to kill him. He has also submitted that the cases of other co-accused are not at par with that of the

petitioners. It has been pointed out that the challan was filed on 05.06.2017, Annexure P-4 and the charges were framed on 04.08.2017. A total list of 41 prosecution witnesses has been submitted, out of which 17 have been examined, 8 have been given up, 16 witnesses are yet to be examined and in case, the petitioners are released on bail, they may interfere with the trial.

I have considered the rival submissions.

The allegations in the FIR describing the gruesome manner in which the petitioners, alongwith the co-accused, had allegedly attacked the deceased with impunity, and a young man of 26 years had been brutally done to death, are of a very serious nature. The testimony of the witnesses relied upon during the course of arguments shows that they have supported the prosecution and given the details of the appalling incident in depth. The evidentiary value of their statements and cross-examination will be determined by the trial court at the appropriate stage. In so far as orders, Annexure P-6, are concerned, this Court granted bail to the other co-accused by taking into considering the fact that their names did not figure in the FIR, whereas the petitioners have not only been named in the FIR, but active role has allegedly been assigned to them in the murder. The trial is at a very crucial stage. The statements of 16 witnesses are yet to be recorded. Therefore, the apprehension of the prosecution that, if released on bail, the petitioners may hamper the trial, cannot be ignored.

Consequently, the petitioners do not deserve to be granted the concession of regular bail. The petition is accordingly dismissed.

It is clarified that the observations made hereinabove shall not

be construed as an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

24.04.2020

Komal/pooja saini

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No