

IN THE COURT OF DR RAM KUMAR SINGLA,
UID No. PB-0122,
ADDITIONAL SESSIONS JUDGE,
KAPURTHALA.

CNR No.
PBKP010002152022



Case No. BA/104/2022

Presented on : 19-01-2022

Registered on : 20-01-2022

Decided on : 04-02-2022

1. Lakhwinder Singh @ Lakha, s/o Tarlochan Singh, aged about 21 years, r/o VPO Dhapai, District Kapurthala;
2. Jagpreet Singh @ Jagga, s/o Raguwinder Singh, aged about 19 years, r/o Village Dhapai, District Kapurthala.

..... Applicants/accused.

Versus

State of Punjab.

..... Respondent.

FIR No.131 of 11.06.2021,
Under Sections 307, 324, 450, 427, 148, 149, 323, 34 of
Indian Penal Code and Sections 25/ 27 of Arms Act, 1959
(Deleted vide DDR No.20 dated 11.11.2021) later on again
added all the above-said sections vide DDR dated
24.11.2021,
Police Station – Sadar Kapurthala, District Kapurthala.

Application for bail under Section 439 Cr.P.C.

Present: Sh.Nitin Sharma, Advocate for the applicants/accused.
Ms.Aarti Mehta, Additional PP for the State assisted by ASI
Puran Chand, No.397/Kpt., In-charge PP Science City, PS
Sadar Kapurthala.

O R D E R

Record perused. **Arguments have been heard** on the present regular bail application of present applicants/ accused in FIR No.131 of 11.06.2021, who are in custody i.e. applicant/ accused Lakhwinder Singh @ Lakha since 29.11.2021 and applicant/ accused Jagpreet Singh @ Jagga since 08.12.2021 in this case.

2. Briefly, the present FIR was got registered at the instance of Avtar Singh (hereinafter called as complainant) with the version that he is resident of Village Dhapai, Police Station Sadar Kapurthala and is at the age of 35 years. He is an agriculturist by profession. His father has already expired. His sister is married. He is residing in that house along with his mother only.

3. On 14.06.2021 at about 11.30 PM, he and his mother were sleeping in their house after taking their dinner and on awakening from his cot, he witnessed that Harkrishan @ Monu, Harman, **Jagga, Lakha** and 4-5 unknown persons armed with sickles, swords, etc. by scaling of the wall of their house turned in their courtyard. The said Harkrishan @ Monu fired from his pistol towards complainant, but that was missed one. Thereafter, the said Harman gave a blow of sickle towards complainant. The complainant to ward off that blow raised his arms, but that blow hit at his left wrist. One blow was given towards him by Jagga with his sickle, which hit at his left shoulder. The said Lakha gave a blow of sword towards complainant, which hit at the left side of his forehead. One more

blow was given by some unknown person, which hit at his back, which was a blow of sword. The complainant and his mother rescued themselves from that assailants by entering into the room and closing of doors. The complainant gave a telephonic call to his friend Jagjit Singh @ Jagga. All the assailants had run away from the spot with their respective weapons. The complainant was removed to Civil Hospital Kapurthala by said Jagjit Singh @ Jagga, wherein he was medico-legally treated vide MLR No.125/PS/CH/Kpt/2021.

4. Initially, the FIR was registered against that Harkrishan @ Monu, Harman @ Davinder Singh Gill, Jagga, Lakhwinder Singh @ Lakha and some unknown persons for the offence punishable under sections 323, 324, 452, 427, 148, 149 of Indian Penal Code. In the investigation proceedings to that occurrence vide DDR No.22 of 23.06.2021, the offence was enhanced for the offence punishable under sections 307, 450 of Indian Penal Code and sections 25/ 27 of Arms Act, 1959 by deletion of offence punishable under section 452 of Indian Penal Code.

5. In further investigation proceedings vide DDR No.20 of 11.11.2021, all the material offence punishable under sections 307, 450, 324, 427, 148, 149 of Indian Penal Code and section 25/27 of Arms Act, 1959 were got deleted by the addition of formal offence punishable under section 323/ 34 of Indian Penal Code. Meaning thereby, the crime was to be investigated for the offence punishable under sections 323/ 34 of

Indian Penal Code as though 07 injuries were reported to be received by the complainant Avtar Singh as all the injuries received by him at his person were declared simple in nature, even evaluating the x-ray report qua that injuries at his person, but the injury No.1, 2 and 7 were found received with sharp edged weapon and rest of the injuries with blunt weapon.

6. However, on further investigation, the aforesaid offence were again added in the present FIR vide DDR No.22 of 24.11.2021. Thereafter, applicant/ accused Lakhwinder Singh @ Lakha was apprehended in the present case on 29.11.2021 with the recovery of weapon of offence sword. Applicant Jagpreet Singh @ Jagga was also apprehended on 08.12.2021 with the recovery of weapons of offence sickle and sword. On 13.01.2022, another accused person Harkrishan Singh @ Monu was apprehended in the present case with the recovery of weapon of offence pistol from him.

7. Now, the applicants/ accused are in custody i.e. applicant/ accused Lakhwinder Singh @ Lakha since 29.11.2021 and applicant/ accused Jagpreet Singh @ Jagga since 08.12.2021. Aggrieved therefrom, applicants/ accused have preferred the present application for their regular bail.

8. The learned counsel for the applicants/ accused has argued that they have been falsely implicated in the present case. They are in custody since long. The presentation of challan and conclusion of trial

will take a long time. All the injuries are of superficial in nature. No vital part injury has been attributed to the applicants. To add the offence punishable under section 307 of the Indian Penal Code is a manipulated act, otherwise original FIR was registered under the formal offences. Moreover, the compromise vide Annexure-A has already been effected of the parties as is evident from the statement of Investigating Officer ASI Puran Chand, but that has not been agreed by the Senior Officers to that investigation proceedings. The investigation agency is taking u-turn to that investigation proceedings by addition and deletion of material offence. As a whole, it is a concocted story to the alleged occurrence for false implication of applicants and their associates. So, the applicants are entitled to the concession of regular bail.

9. On the other hand, learned Additional PP for the State has argued that gravity of offence does not warrant the concession of regular bail to the applicants/ accused. To assail upon the complainant by nine persons that too with deadly weapons, especially pistol, sickles, swords, etc. and to cause 07 injuries at vital parts of his body, that in itself is sufficient to warrant the offence punishable under section 307 of Indian Penal Code. Any such compromise may be the result of pressure upon the complainant and that is the reason, the said compromise could not be endorsed by the investigation agency. So, the applicants/ accused are not deserving the concession of regular bail to them, rather their present regular bail application is liable to be dismissed.

10. **Having heard** to their rival contentions and have gone through the file considering the aforesaid episode of crime, but without commenting on the merits of the case, though there are serious allegations against the applicants/ accused, who along with their associates that too armed with deadly weapons assailed upon the complainant, but as per compromise deed Annexure-A, which is also signed by respectables of the village apart from the complainant that the matter in issue is ended into a compromise though the alleged offence is non-compoundable. It is the reason, the investigation agency has not endorsed to their compromise.

11. Now, question is regarding the investigation proceedings to that allegations as made by the complainant to set the law in motion against the accused persons. The investigation agency has repeatedly made addition and alteration of that offence as alleged by the complainant vide various DDR entries, as referred above, whereby at one time, the alleged offence was just made out under sections 323/34 of Indian Penal Code and later on, that was again restored to the offence punishable under sections 307, 323, 450, 324, 427, 148, 149, 34 of Indian Penal Code and section 25/27 of Arms Act, 1959. Accordingly, the investigation proceedings are not beyond doubt to that alleged occurrence.

12. Apart from aforesaid facts and circumstances on record, so far the life and liberty of the applicants/ accused, the applicant/ accused Lakhwinder Singh @ Lakha since 29.11.2021 and applicant/ accused Jagpreet Singh @ Jagga since 08.12.2021. Meaning thereby, sufficient

period of custody of applicants/ accused has already been passed apart from their compromise vide Annexure-A to the alleged occurrence. To this situation, the applicants/ accused could not be detained for indefinite period, rather no purpose is going to be served by detaining the applicants/ accused anymore. The presentation of challan and conclusion of trial will take long time. So, the applicants / accused are found deserving the concession of regular bail to them.

13. Consequently, the present regular bail application of the applicants/ accused are hereby allowed with the intimation to the concerned quarter and with the directions to furnish the bail bonds & surety bonds to the satisfaction of the learned Trial Court / Area Magistrate / Duty Magistrate. Police record be returned accordingly. This bail application file be consigned to the judicial record room.

Pronounced in open Court.
Dated: 04.02.2022.

Kaushal Kumar
(Directly dictated on computer)

(Dr Ram Kumar Singla),
Additional Sessions Judge,
Kapurthala.
(UID No. PB-0122)