

**IN THE COURT OF SARBJIT SINGH DHALIWAL
JUDGE, SPECIAL COURT, JALANDHAR (UID No. PB0070)**

C.I.S. No.	BA-2134-2021
C.N.R. No.	PBJL01-005525-2021
Date of Institution	19.05.2021
Date of Order	28.05.2021

Mangal Singh @ Mangal Sain aged about 44 years son of Raju @ Jorawar Singh, Mohalla Tian, Nurmahal, Tehsil Phillaur, District Jalandhar.

..... Accused-applicant.

VERSUS

State of Punjab

FIR No. 86 dated 03.11.2016
U/s 307,324,323,506,148,149 IPC
P. S. Nurmahal, Jalandhar.

Bail Application U/s 439 Criminal Procedure Code

Present: Sh. Sat Paul Viridi, Advocate, Counsel for applicant
Sh. Sandeep Kumar, Addl.PP for the State

ORDER:

1. Arguments concluded. During course of arguments learned counsel for accused-applicant submitted that applicant is a poor labourer and at the time of alleged occurrence took place on 30.10.2016, he was far away from that place. Moreover, FIR was registered with regard to above said occurrence on 03.11.2016 after delay of three days. Secondly,

no major role is attributed to him except that he gave kick blows to Pavittar Singh and was having rod in his hand. Since, no notice was served upon him on any occasion, so he could not appear and was declared PO by the court on 22.02.2018. Now he is in custody since 09.03.2021. So prayed for his release on bail.

2. On the other hand Ld.Addl.PP for the State opposed this bail application on the ground that FIR of this case was registered on the statement of Pavittar Singh, who said that on 30.10.2016 he alongwith Vishal was walking on a road leading to Jalandhari Chungi after taking dinner. While, coming back home, when he reached near Gurudwara Sant Baba Ram Dev, then at 9:00 PM from opposite side Amandeep armed with datar, Shera armed with datar, Gobind armed with datar, Gaurav armed with datar, Happy armed with Sword, Mangal armed with rod, Tiddy armed with datar and 4-5 unknown persons armed with datars came there waving the weapons in air. On reaching there, Manni raised a lalkara to teach them lesson for having enmity with him. Then Manni attacked twice with datar causing injury at the back of his head and left wrist, then Malhan caused him injury with datar on the fingers of his left hand, Gobind caused him injury with datar on his left hand finger, Happy caused him injury with Sword on finger on his left hand then Tiddy caused him injury with datar on his right elbow, Mangal gave him kick blows and unknown persons threatened them.

3. Thereafter, when Vishal came to his rescue, then Amandeep @ Manni caused him injury with datar on right side of his mouth. Another attack was made in order to kill him but it hit on right side of his

mouth then Shera attacked him with datar causing injury on his face, thereafter Gobind caused him injury with datar on right side of his face, then Gaurav attacked him with datar with an intention to kill Vishal causing injury on back of his head. Then Happy caused injury to Vishal near his right ear thereafter Manni attacked him twice causing injury on his right elbow. He was again attacked by Shera causing injury on his right hand fingers.

4. The learned Addl.PP for the State submitted that since accused have come to kill the complainant Pavittar Singh and Vishal by forming an unlawful assembly armed with deadly weapons, so, all are equally liable. Therefore, prayed for dismissal of this bail application.

5. After hearing learned counsel for the accused-applicant and Ld.Addl. PP for the State, I am of the view that so far as the plea of alibi taken by accused-applicant is concerned, since no document to support his version has been annexed with the bail application or produced during course of arguments, so it cannot be believed. Whereas, applicant alleged that he was not served with any notice and was declared proclaimed offender without adopting any legal procedure.

6. So far as procedure adopted by the court in declaring the applicant proclaimed offender is concerned, the same cannot be commented upon, while deciding this bail application. No doubt, Pavittar Singh and Vishal were given injuries by more than 5 persons. However, so far as accused-applicant Mangal is concerned, it is only alleged that he was armed with rod and gave kick blows to Pavittar Singh. Whereas, it is difficult to swallow that the person, who was armed with rod instead of

giving injuries with rod would only give kick blows to Pavittar Singh. Except this, no other overt act is attributed to the applicant. The accused-applicant is in custody since 09.03.2021 for the last more than two months and there is no allegation, if he tried to obstruct the investigation or over-awe the witnesses. So, in these circumstances, when it will take time for the court to conclude the evidence and then to finally decide it on merit it will not be right to keep him in custody for indefinite period during this pandemic of Covid-19.

7. Therefore this bail application is allowed and accused-applicant is ordered to be released on bail on his furnishing bail bonds in the sum of Rs.75,000/- with one surety in the like amount to the satisfaction of Illaqa/Duty Magistrate. File be consigned to the Record Room.

Pronounced in open Court:

Dated: 28.05.2021

Chander Cheema*

(Sarbjit Singh Dhaliwal)

Judge, Special Court, Jalandhar

(UID No. PB0070)