

Ranjit Singh & Ors Versus State of Punjab

**In the court of Shri Hira Singh Gill
Addl. Sessions Judge, Jalandhar.**

UID No (PB0153)

B.A. No.201/2020
CNR No.PBJL01-000154-2020
Date of Filing:15.1.2020
Date of Order: 27.1.2020.

1. Ranjit Singh @ Akash @ Dhandowalia aged 20 years son of Harbans Singh, resident of village Alowal City Nakodar District, Jalandhar.
2. Gautam Kumar @ Gora aged about 20 years son of Malooka, resident of Alowal City Nakodar District, Jalandhar.
3. Rakesh Kumar @ Rori aged 21 years son of Roop Lal, resident of village Alowal, City Nakodar District, Jalandhar.

.....Accused/applicants

Versus

State of Punjab

FIR No.94 dated 21.9.2019
U/s 323,326,34 IPC
P.S. City Nakodar, Jalandhar.

[Second Application for Bail U/s 439 of Cr.P.C.]

Present: Shri Sunny Kumar, Advocate for accused/applicants.
Shri Gurpreet Singh, Addl, PP for the State.

ORDER:

1. The instant bail application has been filed under section 439 CrPC, praying for grant of regular bail to the accused/applicants in case FIR No.94 dated 21.9.2019 under section 323,326,34 IPC, registered at police station City Nakodar, Jalandhar.

2. The case of the prosecution is that complainant in this case, Avinash came to India and was serving in a Dera of Sai Baba Ji. At about

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10:00 PM on 13.7.2019, accused/applicants Rakesh Kumar, Gora and Akash and complainant party started talking with each other regarding service of '*Pakor*s' and accused/applicant Rakesh Kumar gave rod blow on the left eye brow of complainant, accused/applicant Akash caught hold the complainant from the backside and accused Gora also gave blow of a heavy object on the left cheek of the complainant. On that complainant stopped seeing anything. He raised alarm and accused persons ran away from the spot. The complainant became unconscious and was taken to Civil Hospital by his uncle Sukhjinder Singh.

3. The case of the accused/applicants is that false case has been imposed upon them. The present FIR has been registered on the statement of Avinash, who attacked firstly on accused Gautam Kumar and Rakesh Kumar and MLR to this effect has also been conducted. Nothing is to be recovered from the accused/applicants. There is delay of more than two months for registration of the FIR. The complainant party was attempting to serve *pakora* made from *bhang*. The accused/applicants have been falsely implicated. It was prayed that accused/applicants be released on bail.

4. While, on the other hand, learned Addl. PP for the State argued that report was recorded by the police on 17.7.2019. The FIR was registration after receiving the opinion from the PGI on 20.10.2019 from where the complainant was under treatment. As per medical report, injury no.1 can lead to blindness of the left eyes due to trematic indirect

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optive neuropathic. If the accused/applicants are released on bail, they may influence the prosecution witnesses.

5. I have considered the rival contentions.

6. The offence in question under section 326 IPC is pertaining to the injury of the eye and loss of vision. But as per medical record injury no.1 can lead to blindness. From the perusal of the police record, it is not made out that any injury led to any permanent privation of the sight of either eye. All the other offences are bailable one. The accused/applicants have been in custody since 9.12.2019.

7. The Hon'ble Apex Court in **criminal Appeal No.227/2018 [2018 (2) AICLR (S.C) 204], Dataram Singh Vs. State of Uttar Pradesh & Anr. Decided on 6.2.2018**, has held that freedom of an individual cannot be curtailed for indefinite period, especially when his guilt has not been proved. It has further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty. The Hon'ble Apex Court has held as under;

2.A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet

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another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use)is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

8. (by now it is well settled that gravity alone cannot be decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. The Hon'ble Apex Court in **Sanjay Chandra Vs. Central Bureau of Investigation, (2012) 1 SCC 49; [2012 (1) AICLR (S.C.) 1]**; where it has been held as under:

“ The object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The Courts have more than verbal respect

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to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. Detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendances at the trial but in such cases, 'necessity' is the operative test. In India, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the relief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.

9 Needless to say object of the bail is to secure the attendance of

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the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. Otherwise also, normal rule is of bail and not jail. Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment which are peculiar to the accused involved in that crime.

10. The main objection of the prosecution is that, in the event of granting bail, the accused-petitioner is likely to tamper the prosecution witnesses. The said objection may be set right by imposing stringent conditions. In the facts and circumstances of the case, this court is of the view that there are valid grounds to consider the bail subject to terms and conditions. Accordingly, the bail application of accused/applicants succeeds and they are directed to be released on bail on furnishing bail bonds in the sum of ₹75,000/- with one surety in the like amount each to the satisfaction of Illaqa Magistrate/Duty Magistrate, subject to the following conditions:-

- a) That accused/applicants will not tamper with the prosecution evidence and will not offer any threat, promise or inducement, directly or indirectly to any of the person acquainted with the facts of the case, dissuading him from disclosing the same to the court/ investigating agency; and
- b) That accused/applicants will not leave the limits of India without prior permission of the court.
- c) That they will appear in the trial court on each and every

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date of hearing.

d) In the event of their absence on any date of hearing, subject to exemption granted by the trial Court if any, the trial court shall be competent to cancel their bail order and proceed to procure their presence in accordance with law.

11. Copy of this order be sent to the concerned court and bail application papers be consigned to the record-room.

Pronounced .
Dt 27.1.2020.
Sukhwinder Singh

(Hira Singh Gill)
Addl. Sessions Judge
Jalandhar. UID No (PB0153)

Hira Singh Gill
Addl. Sessions Judge, Jalandhar

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CNR No.PBJL01-000154-2020

Present: Shri Sunny Kumar, Advocate for accused/applicants.
Shri Gurpreet Singh, Addl, PP for the State.

Arguments heard. Vide my separate detailed order of even, date, the bail application has been allowed as detailed therein. Copy of this order be sent to the concerned court and bail application papers be consigned to the record-room.

Pronounced in open court.
Dt.17.1.2020.

(Hira Singh Gill)
Addl. Sessions Judge,
Jalandhar.UID No (PB0153)

Sukhwinder Singh

Hira Singh Gill
Addl. Sessions Judge, Jalandhar