

IN THE COURT OF DR HARPREET KAUR,
ADDITIONAL SESSIONS JUDGE , FATEHGARH SAHIB.

CIS No.BA 1555-2022.
 CNR No. PBFG-0100-5251-2022
 Date of order: 20.12.2022.

1. Mohan Lal, aged about 69 years, son of Lachhman Dass,
 2. Pushpa Devi, aged about 65 years, wife of Mohan Lal,
- Residents of Village Nandpur, Police Station Bassi Pathana, District
 Fatehgarh Sahib.

.....Applicants

Versus

State of Punjab

FIR No.102 dated 26.10.2022
 Under Sections : 307,323,325,341,148,149 of IPC
 Police Station: Bassi Pathana.

Bail application under Section 439 Cr.P.C.

Present : Sh. D.S. Mangat, Adv. Counsel for the
 applicants/accused.
 Sh. Munish Kumar, Additional P.P. for the State assisted by
 Sh. Ikminderpreet Singh, Advocate for the complainant.

O R D E R

1. This order shall dispose of the present bail application moved under section 439 Cr.P.C. by applicants/accused seeking regular bail in case FIR No.102 dated 26.10.2022, under Section 307, 323,325,341,148,149 of IPC, registered at Police Station Bassi Pathana.
2. Notice of the bail application was given to the State. Record was called from the concerned police station.
3. Brief facts of the case which require consideration for the

disposal of the present bail applications are that FIR in question was registered at the instance of complainant Kulwinder Singh wherein he alleged that on 25.10.2022 at about 04.00 PM, when he along with his brother Hardeep Singh @ Joga went to his shop at Village Klaur, he found that outside his shop **Mohan Lal (*applicant-accused herein*)**, Harjinder Singh Happy (son of Mohan Lal), Hardeep Kaur (wife of Harjinder Singh), **Pushpa Devi (wife of Mohan Lal) (*applicant-accused herein*)**, Happy, resident of Village Doomcherri (brother-in-law of Harjinder Singh), Amrik Singh Gaunda, Gurpreet Singh, Vicky, Rajinder Kumar, Kulwinder Singh, Darshan Singh were standing. All the above mentioned persons intercepted them and started abusing them. At that time Harjinder Singh @ Happy was armed with hammer, Happy Doomcherri and Gurpreet Singh were armed with baseball, Vicky was having wooden log, Mohan Lal, Hardeep Kaur and Pushpa Devi were having brick bats. Amrik Singh Gaunda, Rajinder Kumar and Kulwinder Singh raised '*lalkara*' that Kulwinder Singh (complainant) and his brother should not be spared, they should be taught lesson how to illegally possess the rented shop. In the mean time Mohan Lal, Hardeep Kaur and Pushpa Devi hurled brick bats towards the face of the complainant due to which his upper front teeth broke down. Due to the brick bat hurled by Hardeep Kaur, complainant suffered injury on his upper lip and due to the brick bat hurled by Pushpa, complainant suffered injury on his lower lip. Harjinder Singh @ Happy with the intention to kill the complainant gave injury on his head with his hammer, due to which blood started oozing out

and the complainant fell on the ground. At that time Happy Doomcherri gave injury on the right leg of the complainant with his baseball bat and Gurpreet Singh also gave baseball bat injury on the right shoulder of the complainant. Accused Vicky gave wooden log blows on the back of the complainant. Happy Doomcherri and Darshan Singh also gave fist blows to the complainant and when the brother of the complainant Hardeep Singh came forward to rescue the complainant, the accused also gave injuries to him. Harjinder Singh @ Happy, Happy Doomcherri and Rajinder Kumar gave fist blow on the right eye, on the face and on the left ear of the brother of the complainant respectively. Amrik Singh Gaunda, who is a handicapped person, hit his iron clutch, on the left leg of complainant's brother, due to which the blood started oozing from his leg. Hearing hue and cry of the complainant and his brother, Malkiat Singh and other persons came on the spot. Thereafter all the above mentioned persons tied the complainant and his brother with the electricity pole. When they tried to free themselves, Harjinder Singh Happy gave hammer blow on the left finger of the complainant due to which the nail of the said finger was torn off. Harjinder Singh @ Happy had also gave hammer blow on the left hand of his brother, due to which the nail of little finger as well as index finger were torn off. In the mean time police reached at the spot, rescued them and took them to Civil Hospital, Bassi Pathana. From where brother of the complainant Hardeep Singh was referred to Civil Hospital, Fatehgarh Sahib and due to the serious injuries of the complainant, he was referred to GMCH, Sector 32, Chandigarh. The

motive behind the occurrence is that in the year 2018 the complainant has taken the above mentioned shop on lease from Sandeep Kumar till 2032 but Mohan Lal forcibly wants to oust the complainant from the said shop due to this reason, he alongwith other co-accused attacked the complainant and his brother with the intention to kill the complainant. On the basis of the statement of the complainant the present case was registered against the accused. Hence the present bail application.

4. Ld. Counsel for the applicants-accused submitted that the applicants-accused are innocent person, who have been falsely implicated in the present case. The applicant Mohan Lal is 69 years old person and is suffering from hernia and the applicant Pushpa Devi aged about 65 years old is suffering from breast cancer and is undergoing treatment for the same from PGI, Chandigarh. Both the applicants also suffered injuries in the alleged incident as is evident from the FIR itself. The alleged injuries attributed to the applicants are simple in nature. The counsel submits that the applicants-accused are in custody since 29.10.2022 and is no more required for any further investigation. The applicants are ready to abide by all the terms conditions which may be imposed by the court while granting him bail.

5. On the other hand Ld. Additional Public Prosecutor assisted by Ld. counsel for the complainant has vehemently opposed the bail application on the ground that the allegations against the applicants-accused are serious in nature, therefore, they are not entitled for the benefit of bail.

6. I have heard the learned counsel for the applicants, learned Addl. P.P. for State assisted by counsel for the complainant and have gone through the record carefully.

7. Perusal of record transpires that the allegations against the applicants/accused are that they along with other co-accused intercepted the complainant and his brother and raised lalkara. There are also allegations against the applicants-accused that they hurled brick bats towards the complainant due to which his upper front teeth broke down and he received injury on his lower lip also. The main injuries under section 307 IPC have been attributed to other co-accused. As per the FIR the applicants/accused Mohan Lal also received two injuries and Pushpa Devi received six injuries in the alleged incident. The applicants-accused are in custody since 29.10.2022 i.e. for about more than one and half months. The presentation of challan and conclusion of its trial will take sufficient time. Veracity of the allegations are to be determined at the time of trial which will take sufficient time. Therefore, no useful purpose will be served by keeping the accused/applicant in custody.

8. Keeping in view the period of incarceration and the fact that the applicants-accused themselves received injuries in the alleged incident but without commenting anything on the merits of the case, the applicants/accused are admitted to bail on their furnishing bail bond in the sum of Rs.1,00,000/- each with one surety in the like amount to the satisfaction of Duty/Illaq Magistrate. Papers of bail application be attached with the file if any pending otherwise consigned to record room,

Dr. Harpreet Kaur,
ASJ, Fatehgarh Sahib.

Fatehgarh Sahib after due compliance. Police record be returned.

Announced:
20.12.2022
(Directly dictated)

(Dr. Harpreet Kaur),
Addl.Sessions Judge,
Fatehgarh Sahib.
UID No. PB0443

Karamjit Kaur Stg. II

Dr. Harpreet Kaur,
ASJ, Fatehgarh Sahib.