

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

CRM No.M-3152 of 2015 (O&M)

Date of decision: 24.04.2015.

Jagjit Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. D.S. Pheruman, Advocate for the petitioner.

Mr. Nikhil K. Chopra, DAG, Punjab.

Mr. M.S. Basra, Advocate for the complainant.

...

TEJINDER SINGH DHINDSA, J.

This order shall dispose of the present petition filed under Section 439 Cr.P.C. seeking the benefit of regular bail to the petitioner pending trial in case FIR No.53 dated 16.06.2012, under Sections 302/307/323/336/148/149 IPC read with Sections 25/27/54/59 of the Arms Act, registered at Police Station Ghuman Kalan, District Gurdaspur.

Counsel for the parties have been heard.

The deceased in the present case is Harjinder Singh. FIR was registered on the statement of brother of the deceased i.e. Ranjit Singh. The date of occurrence is stated to be 16.06.2012. As per version of the complainant, the present petitioner, Jagjit Singh has fired .32 bore revolver shot which hit the deceased on the left side of his chest.

Counsel appearing for the complainant would vehemently oppose the prayer by stating that the present petitioner, Jagjit Singh is the main accused and there is a specific allegations of having fired with a fire

arm and such shot having hit the deceased on a vital part of the body.

Insofar as consideration of the prayer of the present petitioner for grant of bail is concerned, it would be apposite to refer to the statement of the Medical Officer, Civil Hospital, Gurdaspur i.e. Dr. Kamal Kishore, PW1. In his statement, the injuries suffered by deceased-Harjinder Singh have been detailed. Insofar the injury attributed to the present petitioner is concerned, it was described in the following terms:

“0.5 cm x 0.5 cm hole on left side of maroon coloured T-shirt corresponding to 0.5 cm x 0.5 cm lacerated wound round in shape black in colour, 6 cm below and lateral of the left nipple of left side of chest. On dissection, the wound was subcutaneous deep and inflammatory reaction was present and nothing detected and found from the wound underlying muscles were healthy.”

Furthermore, the postmortem report was conducted by a duly constituted Board of Doctors and it has been opined that the cause of death of Harjinder Singh is '**shock due to injury to cervical spinal cord with subluxation of C2 and C3 cervical vertebrae i.e. injury no.2, which was sufficient to cause death in ordinary course of nature**'.

That apart, in the deposition in cross examination of the doctor concerned, it has been categorically stated that Harjinder Singh did not die due to any fire arm injury. It has also been stated that there was no fire arm injury on the body of Harjinder Singh and no bullet was found from his body. The doctor has further deposed that injury no.1 i.e. the injury attributed to the present petitioner was superficial in nature and was subcutaneously deep.

The petitioner was arrested on 19.06.2012. The issue as to whether offence under Section 302 IPC is made out would be a moot

question to be taken up during the course of trial.

In view of the reasons recorded above and coupled with the custody period already suffered by the petitioner, this Court is of the considered view that the petitioner is entitled to the concession of bail.

Petition is allowed. Petitioner be enlarged on bail subject to the satisfaction of CJM, Gurdaspur.

It is clarified that the observations contained in this order are confined only as regards considering the prayer of the petitioner for grant of benefit of regular bail and would have not bearing on the trial proceedings.

Disposed of.

24.04.2015
harjeet

(TEJINDER SINGH DHINDSA)
JUDGE