

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-44170 of 2015 (O&M)

Date of Decision: 14.01.2016

Gagan Kumar @ Kalu

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. A.S. Khinda, Advocate for the petitioner.

Mr. R.S. Randhawa, Addl. A.G., Punjab.

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 in case F.I.R. No.150 dated 23.10.2013 under sections 308, 323, 148, 149 I.P.C (section 302 I.P.C was added later on) registered at Police Station, Bullowal, District Hoshiarpur.

F.I.R in question was registered on the statement of Harpreet Singh. The date of occurrence of the incident is 22.10.2013. Deceased is Kulwinder Singh i.e. father of the complainant. Allegations are that when the complainant as also his father had gone to sell their paddy crop in the shop of Commission Agent namely Ravinder Singh, then, at about 7.45 P.M on 22.10.2013 a number of persons including the present petitioner had accosted them and co-accused Sohan Singh and Anmol Ratan had raised a *Lalkara* so as to teach them a lesson as regards the grudge pertaining to Panchayat elections. As per version of the complainant, the present petitioner had caught hold of the hair of deceased Kulwinder Singh and had thrown him on the ground. Kulwinder Singh is then stated to have stood up and upon which co-accused Anmol Ratan had held the right arm of

Kulwinder Singh, Gurkirat Singh held the left arm and main accused Jatinder Singh had given blows from the reverse side of a spade on the back side of the head of Kulwinder Singh.

Kulwinder Singh is stated to have died on 24.10.2013.

In the circumstances noticed herein above, initially offence under section 308 I.P.C had been cited but on account of Kulwinder Singh having succumbed to his injuries, offence under section 302 I.P.C was added subsequently.

The Post Mortem Report of Kulwinder Singh makes it apparent that the cause of death has been opined to be cerebral compression due to intra-cranial haemorrhage due to injury to head. Apparently, this corroborates the version of the complainant in so far as main accused Jatinder Singh having given spade blows (reverse side) on the back side of the head of the deceased.

In so far as the present petitioner is concerned, he has been in custody since 31.10.2013. The only role attributed to him was having thrown the deceased to the ground by pulling his hair.

Under such circumstances, the issue as to whether offence under section 302 I.P.C would be made out against the present petitioner, would be a moot question to be considered during the course of trial.

Keeping in view the facts and circumstances noticed herein above and coupled with the length of incarceration already suffered by the petitioner, he is held entitled to the benefit of regular bail. Present petition is, accordingly, allowed.

Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, Hoshiarpur.

It is, however, clarified that the observations contained in this order are confined only as regards consideration of the prayer of the petitioner for grant of regular bail and would have no bearing on the merits of the case.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

14.01.2016
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