

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.217

CRM-M-30653-2018

Date of decision : 26.07.2018

Charanjit Kumar @ Bagga @ Charanjeev Kumar

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. B.K. Mehta, Advocate, for the petitioner.

Mr. J.S. Walia, Sr. DAG, Punjab.

SUDHIR MITTAL, J. (Oral)

The petitioner seeks regular bail in case FIR No.37 dated 25.08.2016, registered at Police Station City Banga, District S.B.S Nagar, under Sections 302, 324, 506 and 34 IPC.

The case of the prosecution is that the petitioner inflicted head injury upon the deceased person, as a result of which, he died. The petitioner was also part of a group of people, who attacked the complainant party in furtherance of common intention while being armed with deadly weapons.

Learned counsel for the petitioner submits that the petitioner has been in custody since 26.08.2016. The investigation is complete, but the trial is likely to take some time as only eight prosecution witnesses have been examined out of total twenty two prosecution witnesses. Further, it has come in the evidence during the trial that the petitioner was also injured and he was admitted to hospital forty minutes prior to father of the deceased having been brought to the hospital. The post-mortem report shows that there was no head injury inflicted upon the deceased person. Thus, it appears that the petitioner is innocent and is entitled to grant of regular bail.

The prayer is opposed by the learned State counsel on the ground that the petitioner was a member of an unlawful assembly, which attacked the

complainant party with pre-meditation as they were armed with *datar* and *knives*. Thus, even if it is held that the injury allegedly inflicted by the petitioner did not cause the death of the deceased person, the intention to inflict severe injuries was apparent. The complainant party was attacked by the petitioner and his accomplices even after they were brought to the hospital and thus, the brutality of the attack was evident. It is, however, not disputed that out of total twenty two prosecution witnesses only eight have been examined till date.

The evidence of the doctor (PW2) is on record and a perusal thereof shows that the petitioner was already admitted in the hospital when the injured persons belonging to the complainant party were brought. Thus, the likelihood of the petitioner having participated in the attack in the hospital premises, as contended by the learned State counsel, was remote. The MLR/PMR of the deceased person bears out the contention of learned counsel for the petitioner that there was no sharp edge weapon injury on the head of the deceased person.

The petitioner has been in custody since 30.08.2016, as is evident from the custody certificate dt. 26.07.2018, filed by learned State counsel in Court today and only eight prosecution witnesses have been examined till date.

Keeping in view the facts and circumstances of this case, I deem it appropriate to allow this petition. Accordingly, the petition is allowed and the petitioner-Charanjit Kumar @ Bagga @ Charanjeev Kumar, is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

(SUDHIR MITTAL)

JUDGE

26.07.2018

Ramandeep Singh

Whether speaking / reasoned	Yes / No
Whether Reportable	Yes/ No