

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

107+218

**CRM-M-49833-2019(O&M)
Date of decision : 17.12.2019**

ANOOP SINGH

.....Petitioner

versus

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bikramjit Singh Baath, Advocate
for the petitioner.
Mr. Hittan Nehra, Addl. A.G., Punjab
Mr. Ashok Saini, Advocate
for the complainant.

ANIL KSHETARPAL, J. (ORAL)

Petitioner prays for grant of regular bail pending trial in a criminal case arising out from FIR No.0029, dated 07.04.2019, registered under Sections 302/307/148/149 IPC and Sections 325/323 IPC added later on vide rapat No.023 dated 07.05.2019, at Police Station Qadian, District Batala.

Gist of the case of the prosecution has been noticed by the learned court of Sessions, are extracted as under:-

“The case arising out of FIR No. 29 dated 07.04.2019 has been registered under sections 302/307/148/149 IPC at P.S. Qadian, Batala on the statement of complainant Inderjit Singh son of Karamjit Singh, who stated before police that son of Mitterpal Singh alongwith his nephew used to issue threats to complainant telephonically due to grudge because complainant was Sarpanch of the village. On 07.04.2019, at about 01:30 PM complainant collected their relatives and respectables in this regard and sent message through Surinder Singh and Gurnam Singh in the house of Mitterpal Singh to come present in the primary school of the village at 02:00 PM. Hence, complainant alongwith Navdeep, Gurpreet Singh, Jobanpreet Singh, Bhupinder Singh and 3-4 other persons, when reached near the school, then from the front side Mitterpal Singh armed with baseball, Anoop Singh armed with baseball, Shashipal Singh armed with handle of spade, Chamkaur Singh armed with handle of spade, Kirpal Singh armed with handle of spade standing in front of them. Mitterpal Singh raised Lalkara

that lesson should be taught to them for getting Sarpanchi. Thereafter, all the accused attacked upon them and inflicted injuries to them with their weapons. In the meantime, Jujar Singh alongwith 4-5 persons came on Belero jeep bearing no. PB-06-AM-7522 from the side of village Daultpur and Jujar Singh stopped his vehicle near the Gurudawara Sahib. Then Mitterpal Singh raised Lalkara that Jujar Singh drive his vehicle on the injured persons. Due to this, Jujar Singh drove his vehicle on injured person namely Navdeep Singh, Gurpreet Singh, Jobanpreet Singh and Bhupinder Singh, due to which they suffered serious injuries. Unknown persons also gave brickbats blows upon them. Thereafter, all the accused fled away from the spot after issuing threats alongwith their respective weapons. Due to this, Navdeep Singh got serious injuries on his head and blood started oozing. All the injures were admitted in the Civil Hospital, where Navdeep Singh was declared dead by the doctors, whereas other injured were referred to the Amritsar. On the basis of aforesaid statement, law has been set into motion, case against the accused stands registered, accused caused to be arrested.”

Learned counsel for the petitioner while drawing attention of the court to the charge framed by the court of Sessions has submitted that apart from charge that the petitioner, in unlawful assembly having common intention to commit offence of murder, the petitioner has been charged under Section 323 IPC read with Section 149 IPC. Relevant part of the charge against the petitioner reads as under:-

“That on 07.04.2019 at about 1.30 pm in the area of village Daulatpur, you all above named accused were members of an unlawful assembly having common intention to commit offence of murder and attempt to murder and you all were armed with deadly weapons at that time and you all did certain acts in furtherance of common intention of your unlawful assembly and thereby, you all committed an offence punishable under Section 148 of Indian Penal Code and within my cognizance.”

“Fifthly, on the same date, time and place, you accused Anop Singh in furtherance of common intention of your unlawful assembly caused hurt to the person of Navdeep Singh with baseball stick and thereby, you committed an offence punishable under Section 323 IPC whereas you co-accused committed an offence

punishable under Section 323 read with Section 149 of IPC and within the cognizance of this Court.”

Learned counsel for the petitioner further submits that the petitioner is in custody for the last 8 months. Investigations are complete. The report as required under Section 173 Cr.P.C. has been filed and charges have been framed.

Prosecution proposes to examine 31 witnesses but till date not a single witness has been examined.

On the other hand, learned counsel for the State duly assisted by learned counsel appearing for the first informant-victim has submitted that the application for amendment of charge has been filed, which is pending in the Court. He further submits that from the reading of post mortem report, Navdeep Singh deceased had suffered multiple fractures of occipital parietal region and therefore, the charge framed against the petitioner is not correct.

Be that as it may, petitioner is now in judicial custody. As per the information supplied by learned counsel for the State, petitioner does not have any criminal antecedents. Conclusion of the trial is likely to take time.

Without commenting on the merits of the case and keeping in view the facts of the case, this court has come to a conclusion that further incarceration of the petitioner, at this stage, shall not be justified. The petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the trial Court/Duty Magistrate.

Accordingly the petition is allowed with the aforesaid directions.

December 17, 2019

nt

Whether speaking/reasoned

Whether reportable

(ANIL KSHETARPAL)

JUDGE

: Yes/No

: Yes/No