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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50324-2019
Date of decision-02.12.2019

Arjunsinh Shivsinh Thakor

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. P.S.Ahluwalia, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

MANOJ BAJAJ, J.

Petitioner-Arjunsinh Shivsinh Thakor has prayed for grant of regular bail under Section 439 Cr.P.C in case FIR No.104 dated 06.05.2019 registered under Sections 302 of Indian Penal Code, 1860 at Police Station Civil Lines, Patiala, District Patiala. The petitioner is in custody since his arrest on 06.05.2019.

The FIR was registered on the statement of Geeta Ben widow of Lt. Mahesh Kumar, which reads as under:-

“Stated that I am resident of the aforesaid address. I have two children, the elder daughter Divya is aged 19 years and younger son Divya Raj is aged 16 years. Both the children are studying. My husband T.Mahesh Kumar was working as Hawaldar in the Indian Army whose duty is in QRT andn Battalion is 601. Due to the duty in QRT

my husband had often been living along with his accomplices in the barrack built in the Unit itself. Last night at around 10.30 p.m. my husband's unit's persons had told me that my husband had a fight with Arjun Singh who was posted in the QRT only. For being injured my husband has been got admitted in Military Hospital. Today morning my husband's unit's persons had told me that yesterday night Ct.Arjun Singh posted in the QRT had attacked with a wooden danda in my husband's head and due to grievous head injury my husband had fell down in the barrack only and few colleagues of my husband had brought him to Military Hospital, where he had died during treatment. My husband had died for being hit in his head with danda by Arjun Singh. Legal action may be taken against the accused Thakur Arjun Singh s/o Thakur Shiv Sinh, Village Mehsana, Post Mehsana, Tehsil and Sitriect Mehsana-384003 (Gujarat).”

Learned counsel for the petitioner contends that the petitioner/accused and the victim were barrack-mates and belonged to the same State. He submits that as per the prosecution itself, the victim used to tease the accused by using objectionable language in respect of his mother and on the date of occurrence also, similar kind of language was used by the victim. He submits that the victim had gone for a dinner with his colleague, namely, Ajay Yadav to the mess and upon return to the barrack, the victim again started speaking ill-words to the accused. He submits that it was at that

stage, the petitioner allegedly gave a wooden danda blow on the head of the T.Mahesh Kumar, who fell down and later died. He has invited the attention of the Court to the statement of Naik Sandeep recorded under Section 161 Cr.P.C (Annexure P-4). Similar is the statement of Constable Ajay Yadav. He submits that the investigation of the case is complete and further custody of the petitioner may not be justifiable.

On the other hand, learned State counsel assisted by ASI Balkar opposed the prayer. He submits that the petitioner is involved in the crime who gave the fatal blow to the victim which caused his death and therefore, he does not deserve the concession of bail particularly when the charges have been framed recently on 11.10.2019.

At this stage, learned counsel for the petitioner submits that it is seriously debatable if the case would fall within the ambit of Section 302 IPC, as the provocation by the victim is not disputed. He has invited the attention of the Court to the said observation made by Additional Sessions Judge, Patiala while declining the prayer for bail vide order dated 14.10.2019.

After hearing learned counsel for the parties, this Court finds that the victim died of one single blow and as per prosecution itself, the petitioner was the barrack mate of T.Mahesh Kumar who used to tease the petitioner. Considering the fact that the trial of the case is likely to consume considerable time, therefore, further custody of the petitioner may not be justified. Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail

subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

02.12.2019

vanita

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