

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22786-2020

Date of Decision: 21.08.2020

Jagtar Singh

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Salil Dev Singh Bali, Advocate for the petitioner

Mr. Amit Mehta, Sr.DAG, Punjab

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

The petitioner Jagtar Singh who is stated to be aged 39 years has filed the present petition *inter alia* with a prayer for grant of regular bail. He has been allegedly involved in case FIR No.86 dated 01.06.2018 under Sections 302/148/149 IPC, registered at PS Sadar Fazilka.

Learned counsel for the petitioner submits, by making reference to the FIR, that complainant Darshan Singh has alleged that he has five children out of which, two are sons: Mandeep and younger to him is Sarabjit Singh. Sarabjit Singh was a student and, as alleged in the FIR, had left on 31.05.2018 on his motorcycle from his house for taking examination. It is then stated that the complainant along with Kamaljeet Singh r/o Guddar Bhaini had gone to Fazilka City for some work. He then submits that he got a call from Bittu s/o Sundar Ram that Mukhtiar Singh s/o Karnail Singh r/o Ghurka along with his other companions was fighting with Sarabjit Singh near Dhani Ram Chand road. It is then alleged that the complainant along with Kamaljeet Singh started back and when they

reached Dhani Mohan Lal road then two motorcycles which were in front of them and out of which one was being driven by Pyara Singh s/o Kulwant Singh and on his pillion Jagtar Singh (the petitioner) was sitting and the other motorcycle was being driven by Narender Singh s/o Nihal Singh r/o Ghurka and on his pillion Sandeep Singh s/o Narender Singh was sitting. It is then stated that motorcycles were going fast. It is then alleged that son of the complainant Sarabjit Singh came on his motorcycle in a hurry and he was being followed by two motorcycles in which four persons were sitting. It is then *inter alia* alleged that Jagtar Singh (the present petitioner) who was having a rod in his hand gave a blow on the head of Sarabjit Singh son of the complainant which hit him on the right side of his ear and then Pyara Singh gave a blow of baseball which hit Sarabjit on his right eye.

Learned counsel based on the pleadings submits that from the perusal of the FIR, it clearly shows that it is an afterthought and a concocted story. Initially, in the FIR, it has been alleged that the complainant was at a far-off place and got a call that certain persons namely, Mukhtiar Singh along with others was fighting with Sarabjit. It is thereafter alleged that the complainant then started back and allegedly witnessed the incident himself which is totally improbable. Learned counsel then makes reference to the concluding portion of the FIR which reads as under:-

“Then I along with Kamaljeet Singh took care of my son, who because of injuries was badly bleeding. We arranged the vehicle and took him to Civil Hospital Fazilka where the doctor on seeing the critical position referred him to Guru Gobind Singh Medical College, Faridkot but in order to save the life of our son we came to Ganga Ram Bansal Hospital, Sri Ganga Nagar and got him admitted there where during the treated (sic treatment) he

succumbed to his injuries and thereafter we brought his dead body to Civil Hospital, Fazilka. The motive behind this is that the accused doubt my son that he used to tease their daughter and because of this they have given injuries to my son and have murdered him. I have given my statement, read over and found to be correct. Legal action be taken. Sd/- Darshan Singh above.”

Learned counsel then makes reference to the medical record (P4) of Ganga Ram Bansal Super-Speciality Hospital, Sri Ganga Nagar to show that the deceased Sarabjit Singh was discharged on 01.06.2018 at 7.15 am with status LAMA (leave against medical advise). In this view of the matter, learned counsel argues that the alleged incident being of 31.05.2018 whereas even on 01.06.2018 the deceased was taken against medical advice at 7.15 am, therefore the death cannot be directly attributed to the petitioners even if the allegations in the FIR are taken to be correct for the sake of argument.

Learned State counsel, on the other hand, on instructions from ASI Jugraj Singh, submits that it is correct that the petitioner was arrested on 25.06.2018. He also submits that he has completed custody of 2 year, 01-month and 23 days. Learned State counsel, on merits, opposes the bail application as he submits that the injury is attributed to the petitioner. On the asking, he further submits that there are a total of 23 witnesses and only one has been examined. The next date fixed before the trial Court is 28.08.2020.

Faced with this, learned counsel for the petitioner submits that in fact on the previous date also, the case was adjourned without any effective progress because of COVID situation. He further submits that even as per the allegations in the FIR, there are 2 injuries which have been

has been attributed to the petitioner and the other injury is in fact attributed to Pyara Singh. It is urged that the petitioner is not involved in any other case.

Faced with this counsel then submits that due to COVID situation retention of the petitioner in jail is dangerous to his life and otherwise also the trial is likely to take some time.

In view of the above, this Court deems it appropriate to release the petitioner on regular bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the Duty Magistrate/trial court concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression on merits of the case.

Disposed of.

21.08.2020

vishal shonkar

**(Girish Agnihotri)
Judge**

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No