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

**CRM-M No.51108 of 2018
Date of Decision: 13.02.2020**

SURJIT SINGH @ BITTUPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Amrinderjit Singh Sandhu, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. D.A.G., Punjab.

Mr. Veneet Sharma, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.16 dated 25.04.2018, registered under Sections 302/148/149/201 IPC and Section 25 of the Arms Act at Police Station Kahnuwan, District Gurdaspur.

Earlier prayer for regular bail was got dismissed as withdrawn with liberty to file fresh petition with better particulars/supporting documents vide order dated 06.09.2018.

As per allegations, Surjit Singh was armed with chhura. Sarwan Singh, Kuku, Tinku were armed with swords. Sunny was armed with dang, Manjit Kaur and Ajit Kaur @ Jito were empty

handed. They came to the house of the complainant from the side of Tinku's house by raising *lalkaras*. Manjit Kaur and Ajit Kaur jointly raised *lalkaras*. Surjit Singh pushed husband of the complainant on the ground by giving blow of reverse side of *Chhura*. Thereafter Sarwan Singh gave straight blow of his kirpan on the head of husband of the complainant which hit on his left side of the head. Kuku and Tinku gave straight blows of their swords on the head of husband of the complainant, which landed on the left side of his head. Sunny gave blow of corners of his dang on husband of the complainant which hit on different parts of his body. Husband of the complainant namely Hardeep Singh ultimately succumbed to the injuries.

As per postmortem report, four injuries were found on the person of the deceased. The details of which are given as under:-

- “1. *Incised wound 4 cm x 1 cm obliquely present 3 cm above the level of upper end of left pinna underlying comminuted fracture present.*
2. *Incised wound 3 cm x 1 cm present behind the above wound left side of scalp underlying comminuted fracture present.*
3. *Bruise mark 6 cm x 3 cm present on the back side at mid scapula level.*

4. *Incised wound 4 cm x 1 cm present one cm above the second wound left side scalp.”*

As per Injury No.3, there was a bruise mark on the back side at mid scapula level. Even if that injury is attributed to the petitioner, it would be debatable as to the nature of injury with the alleged weapon carried by the petitioner. Petitioner is not author of any injury on the head of the deceased. Petitioner is in custody since 28.04.2018.

Learned State counsel duly assisted by learned counsel for the complainant, on instructions from the Investigating Officer of the case however, opposed the prayer for regular bail on the ground that the offence committed by the petitioner is heinous in nature. Petitioner has actively participated in the occurrence. Therefore, petitioner is not entitled for bail.

Learned State counsel further submitted that out of 24 prosecution witnesses, 4 witnesses have been examined so far and 8 of the prosecution witnesses have been given up.

Perusal of the interlocutory orders would show that the delay in the trial is not exclusively attributable to the petitioner as the application under Section 311 Cr.P.C. was filed by the prosecution and secondly owing to the medical condition of the

co-accused Sarwan Singh, the cross-examination of the prosecution witnesses was deferred for some time.

Be that as it may, *prima facie* it can be noticed that the petitioner is not author of any head injury on the person of the deceased. The injury at the back of the deceased would be adverted to by the trial Court with reference to evidence on record. The complicity of the petitioner in any case would be debatable.

Taking into consideration of the aforesaid facts and circumstances of the case, at this stage, without adverting to the merits of the case, I am of the view that petitioner, who is in custody since 28.04.2018 can be enlarged on bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

February 13, 2020

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No