

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

CRM-M-28071-2019(O&M)

Date of decision:- 19.2.2020

Joginder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. H.S. Brar, Advocate
for the petitioner.

Ms.Amarjit Kaur Khurana, DAG, Punjab.

Mr.Ajay Pal Singh, Advocate for
Mr.Ashok Kumar Sharma, Advocate
for the complainant.

H.S. MADAAN, J. (Oral)

This petition has been filed for the grant of regular bail to the petitioner – Joginder Singh, an accused in FIR No.0047 dated 18.7.2018, under Sections 302/427/323 IPC, registered at Police Station Vairoke, District Fazilka.

Briefly stated, the facts of the case as per the prosecution story are that complainant Maya Bai wife of Pritam Singh of Rai Sikh community, resident of Kannana Wala Jhugge, aged about 55 years, had got recorded her statement with the police of Police Station Vairoke on

18.7.2018, wherein she stated that they had land in Dogran Wale Jhugge Dakhli village Romawala in which they had planted paddy; on that very day at about 9:30 a.m., she along with her husband had gone from their home to their land in Dograwale Jhugge on a motorcycle and her husband had parked motorcycle near the house of Jarnail Singh and they left for their fields and started sowing paddy; at about 10:00 a.m., Joginder Singh alias Kala son of Lakhmir Singh, a brother-in-law of the complainant came there and started abusing them saying that why they had parked their motorcycle at that place; he started giving blows of dang on their motorcycle and damaged it; when the complainant and her husband ran towards motorcycle and her husband Pritam Singh reached near the motorcycle, Joginder Singh started giving dang blows to her husband; the complainant raised an alarm and got her husband released taking him to the house of Kashmir Chand son of Piara Ram; thereafter, Joginder Singh made a call to his house and his son Gurmej Singh and wife Dialo Bai arrived there; the husband of the complainant felt pain and complainant was taking him to the hospital for getting him treated and when they reached the pucca road, then all the assailants gave dang blows; the husband of the complainant fell unconscious; the complainant raised alarm and then the assailants ran away from the spot; the complainant called her son-in-law Chann Singh and arranged for a vehicle; Pritam Singh was taken to Civil Hospital, Jalalabad where he was medically examined and then referred to Guru Gobind Singh Medical College, Faridkot; while being taken there Pritam Singh died on the way.

Formal FIR was recorded. Accused Joginder Singh was

arrested in this case. He had moved an application for regular bail in Court of Sessions at Fazilka but was unsuccessful as the same was dismissed vide order dated 10.4.2019 passed by learned Sessions Judge, Fazilka, as such, he has approached this Court for grant of similar relief.

Notice of the petition was given to the State and State counsel has put in appearance. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

The petitioner is stated to be aged about 68 years. Learned counsel for the petitioner contended that there was no injury on the person of the deceased and he had died as a result of suffering a heart attack. He has referred to the statement of PW5 Dr.Gurpreet Singh, Medical Officer, CH Jalalabad in that regard. In his cross-examination, he had stated that there was no visible injury on the person of the patient. Learned counsel for the petitioner has further argued that as per the report regarding histopathology, the cause of death was due to a coronary disease and artery disease and not on account of any injuries.

Though the request for bail is being opposed vehemently but I find that a reasonable doubt does arise in the mind as to whether the deceased had received any injuries at the hands of the petitioner and other persons accompanying him, if so whether he had succumbed to those injuries. Though guilt of the accused shall be determined during the trial but considering the facts and circumstances of the case, the old age of the petitioner, I find that it shall be in the fitness of things, if concession of

bail is granted to the petitioner.

Accordingly, the petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Fazilka, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

19.2.2020
Brij

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No