

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

244

CRM-M-38424-2020 (O&M)

Date of decision: 16.12.2020

Balwant

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Chanderhas Yadav, Advocate
for the petitioner.

Mr. Karan Garg, Asstt. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video
conferencing.)

CRM-30664-2020

For the reasons mentioned in the application, the same is allowed and the petitioner is exempted from filing certified/true typed copies of bail orders of co-accused, copies of which are taken on record as Annexures P-17 and P-18.

CRM-M-38424-2020

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.95 dated 19.06.2020 registered under Sections 147, 148, 323, 325 and 506 read with Section 149 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Bond Kalan, District Charkhi Dadri to which Sections 307 and 302 of the IPC were added lateron.

The above said FIR was registered initially under Sections 147, 148, 323, 325 and 506 read with Section 149 on statement of complainant Vikram. In his statement Vikram alleged that on 16.05.2020 at about 08:00 A.M. when they went to their plot to restrain Balwant Singh (the petitioner), his three sons, two daughters-in-law, two grandsons, Meena, Ajay and Rohit and Savitri from forcibly raising construction on the same, the above said persons attacked them and caused injuries to him, his father, elder paternal uncles Suraj Bhan and Balbir and his brother Ashish, cousin Arun and his mother Chandro Devi. Subsequently, on receipt of medical opinion as to injury on the person of Suraj Bhan being dangerous to life Section 307 of the IPC was added and on his death Section 302 of the IPC was added.

The petition has been opposed by learned State Counsel. However, no reply has been filed on behalf of the respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner, who is aged about 78 years, has been falsely implicated in the case. The family of the petitioner was raising the construction on their own plot but the complainant party did not allow them to raise the construction. The quarrel took place on the spot in which both the parties suffered simple and grievous injuries. The police in connivance with the complainant registered FIR against the petitioner and his co-accused but did not take any action against the complainant party. The petitioner party also filed complaint before the Judicial Magistrate First Class and on his direction the police registered FIR No.147 dated

28.08.2020. As per prosecution version, the petitioner is alleged to have caught hold of deceased Suraj Bhan while co-accused Amit is alleged to have inflicted blow with *basoli* and the petitioner is not alleged to have caused any injury to deceased Suraj Bhan. Deceased Suraj Bhan suffered only one injury on his head which is attributed to co-accused Amit. Deceased Suraj Bhan was discharged from PGIMS Rohtak after three days and he died subsequently after one month due to injury suffered on falling down in the toilet. Similarly placed co-accused Shantanu has been granted regular bail by this Court vide order dated 10.12.2020. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner along with his co-accused committed murder of Suraj Bhan and caused injuries to others. The petitioner caught hold of deceased Suraj Bhan to facilitate causing of injury to him by his co-accused Amit. In view of the nature of accusation, role attributed to the petitioner and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In the present case the petitioner is merely alleged to have caught the deceased and the fatal injury caused to deceased Suraj Bhan attracting Section 302 of the IPC is attributed to co-accused Amit. The case also involves debatable question as to cause of death of Suraj Bhan and consequent inapplicability the provisions of Section 302 of the IPC.

Keeping in view the facts and circumstances of the case, involvement

of version and cross-version, nature of accusation and evidence against the petitioner, parity with his co-accused Shantanu, who has been granted bail by this Court vide order dated 10.12.2020 and also the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

16.12.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No