

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

CRM M- 54792 of 2020 (O&M)

Date of Decision: August 20, 2020

Sushil Kumar

.....Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. S.S. Swaich, Advocate
for the petitioner.

Mr. N.K. Banka, DAG, Punjab.

FATEH DEEP SINGH, J. (Oral)

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

Petitioner Sushil Kumar who claims to be a juvenile (date of birth 15th July 2001) and has been ordered to be tried as an adult vide order dated 26.03.2019 by the Juvenile Justice Board Patiala has sought this first regular bail moved under Section 439 Cr.P.C in FIR No. 46 dated 15.06.2018 registered under Sections 302, 323, 341, 506 and 34 IPC (offence under

Section 302 IPC added later on) at Police Station Sadar Rajpura, District Patiala.

The complainant Suresh Kumar alleged that on 13.06.2018, he saw accused Chhinderpal Singh, his sons including the present petitioner and his wife assaulting Ramesh father-in-law of the complainant. It is alleged that Chhinderpal gave a danda blow on the head of the deceased while others are too attributed injuries by dandas. As a consequence of which the injured died.

Mr. S.S. Swaich, learned counsel for the petitioner *inter alia* contends that the petitioner though undisputedly was a juvenile at the time of the occurrence is behind the bars for more than 02 years and 20 days and that too has been kept in regular jail. It is contended that the postmortem report reflects only single injury attributed to Chhinderpal and that the petitioner has been falsely implicated on account of being from the same family.

Mr. N.K. Banka, DAG, Punjab learned State counsel has stoutly opposed the bail submitting that the trial is underway and in view of the seriousness of the allegations disentitles the petitioner to any relief.

Going through the submissions and closely examining the postmortem report placed on the file shows that there is only single injury on the head of the deceased, which is attributed to the principal accused, thus, in view of this puts

question mark on claim of the prosecution story. More so, the petitioner as per his age was a juvenile at the time of the commission of the offence and the order of the Juvenile Justice Board is itself suggestive of the total insolence and being contrary to the provisions of law.

Without advertng on to the merits and in the light of the fact that the trial is not likely to be accomplished in the near future in view of COVID 19 pandemic impels this Court to allow the bail. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned

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

Disposed off accordingly.

August 20, 2020

(FATEH DEEP SINGH)

amit rana

JUDGE

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