

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

**CRM-M-55248 of 2019 (O&M)
DATE OF DECISION : 27.10.2020**

Harmeet Singh @ Malkeet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Parvesh Sachdeva, Advocate,
for the petitioner.

Mr. P. S. Walia, AAG, Punjab.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

The petitioner is seeking regular bail in FIR No.15 dated 04.02.2019 under Section 302/34 IPC registered at Police Station Vairoke, District Fazilka.

2. As per allegations, on 01.02.2019, petitioner along with his co-accused Harjinder Singh, committed murder of Jagdish Singh.

3. Learned counsel for the petitioner argues that petitioner has been implicated due to animosity/vendetta and factionalism between the complainant group and the accused group. In any case, he submits that even as per the version recorded in the FIR, the fatal injury has been attributed to the prime accused Harjinder Singh (non-petitioner) and the allegations against the petitioner are completely general and vague in nature. He further submits that no overt act has been attributed to the petitioner.

4. Learned counsel further submits that the petitioner merely happened to be present at the time of unfortunate incident and has been named in the FIR which was registered after a delay of 03 days and the complainant was not in a position to have known the role attributed to the petitioner at the time of incident. He relies on the medical record of the deceased in support of his argument that there was only one injury found on the head of deceased which turned fatal and the same is attributed to the afore said prime accused Harjinder Singh. He further argues that even otherwise, as per allegations contained in the FIR, there is no motive attributed to the petitioner as injury was caused as a result of sudden fight between the two groups which erupted over a game of cards being played preceding the incident/crime in question. He, therefore, argues that there was no intention to cause murder of the deceased and at worst, the case of prosecution would fall within the ambit of Section 304 (Part-II) IPC and not Section 302 IPC.

5. On query of the Court, learned State counsel does not controvert that petitioner did not cause any injury to the deceased. There was only one injury which was found on the head of deceased, attributed to the aforesaid co-accused, which turned fatal as per the medical record.

6. Having heard the learned counsels I am of the view that the petitioner has since not been attributed with the fatal injury, as the same was caused by the prime accused Harjinder Singh, which resulted in compression of brain due to subdural haematoma, sufficient to cause death in ordinary course of nature, as opined by the medical experts, prima-facie, it does not therefore seem to be a case of attributing motive/intention to the petitioner to commit murder. The same, in any case, is a matter of trial which is held up due to covid-19 pandemic. Trial is not likely to resume or conclude anytime soon due

to current pandemic as only urgent matters are being taken and recording of evidence is held up. The petitioner is stated to be in custody since 06.02.2019.

7. In the premise, the instant petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds subject to the satisfaction of Chief Judicial Magistrate/Duty Magistrate.

8. Any observations made in this case are only for the purpose of bail and shall not be taken as an expression on the merits of any kind qua the allegations contained in the FIR/Charge sheet.

OCTOBER 27, 2020

shalini

(ARUN MONGA)

JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No