

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

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CRM-M-7832 of 2021

Date of decision :-23.03.2021

Jaswant Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

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

Mr. Gurmeet Singh, AAG, Haryana.

Mr. Karanjeet Singh Brar, Advocate for the complainant.

SUVIR SEHGAL, J.

This is the second petition filed under Section 439 of the Code of Criminal Procedure, seeking grant of regular bail to the petitioner in FIR No.121 dated 02.06.2019 under Sections 147, 149, 302, 120-B IPC, 1860, and Section 25 of Arms Act, 1959, and offence under Section 34 of IPC, 1860, was added later on and offence under Sections 147, 149 of IPC was deleted later on, registered at Police Station Kalanwali, District Sirsa, Annexure P-1, and later on charges have been framed under Sections 120-B, 302/120-B, 148, 302 read with Section 149 IPC and Section 25 of Arms Act, 1959.

FIR was registered on the statement of Harjinder Singh, on the allegation that on 02.06.2019, when his paternal uncle, Shivkaran Singh @ Nikka had gone to agricultural field early in the morning with two children, he was attacked by Dalbir Singh and Sukhwant Singh, who were armed with

pistols and Raghubir Singh, Amandeep Singh and Jaswant Singh (present petitioner), who were armed with 'dandas'. They caused injuries on him as a consequence of which, he died at the spot. The motive of the attack was previous enmity between the parties as there was a land dispute between them and a conspiracy was hatched at the house of Darshan Singh to kill Shivkaran Singh @ Nikka.

Counsel for the petitioner submits that the petitioner has been falsely implicated in the case as he was not present at the spot on the date of the alleged occurrence. He submits that the attribution to the petitioner is of having caused injuries with a stick which cannot possibly result in death. He has placed reliance upon the orders passed by this Court, whereby co-accused Jasbir Kaur, wife of Darshan Singh, Hardeep Singh, Talwinder Singh and Hargobind Singh have been granted the concession of regular bail. He has referred to the deposition of the complainant-Harjinder Singh (PW-1), which has been placed on the record as Annexure P-6.

Opposing the petition, State counsel, upon instructions from SI Wazir Singh, submits that the petitioner was one of the main conspirators and he along with the other accused, had attacked the deceased and caused his death. He urges that the complainant has been examined and has supported the case of the prosecution. Still further, he points out that the bail petitions filed by the other four co-accused, who have been named in the FIR, were dismissed by this Court.

I have considered the submissions of the parties.

A perusal of the testimony of the complainant, Harjinder Singh, PW-1, shows that his statement is inconsonance with the complaint submitted by him on the basis of which the FIR has been lodged. During his deposition, he has remained unshaken, despite extensive cross-examination.

The petitioner is probably party to the conspiracy allegedly hatched at the residence of Darshan Singh, who has previous enmity with the deceased and with a common intention, the petitioner and the other co-accused attacked and killed the deceased. The orders passed in the bail petitions filed by co-accused Hardeep Singh, Talwinder Singh, Hargobind Singh and Jasbir Kaur, do not help the petitioner as all the said four co-accused have been arraigned as accused on the basis of the disclosure statements of the main accused, who have been named in the FIR, whereas the petitions filed by the main conspirators have been rejected by this Court.

The first petition by the petitioner seeking bail was dismissed on 08.01.2020 and this petition has been filed without there being any change in the circumstances, which would be deemed to be seeking review of the earlier judgment. The same is not permissible in criminal law as has been held by the Hon'ble Supreme Court in **Hari Singh Mann Vs. Harbhajan Singh Bajwa (2001) 1 SCC 169; State of Madhya Pradesh Vs. Kajad, 2001 SCC (Criminal) 1520 and State of Maharashtra Vs. Capt.Buddhikota Subha Rao 1989 Supl. (2) SCC 605.**

In view of the above, no ground for grant of bail is made out.

Accordingly, the second petition seeking regular bail is ordered to be dismissed.

It is clarified that nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

23.03.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No