

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

**CRM-M-16730-2021
Date of Decision : 28.10.2021**

Amrik Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Mandhir S. Virk, Advocate
for the Petitioner.

Mr. B.S. Sewak, Addl. Advocate General, Punjab
for the Respondent/State.

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.258, dated 17.10.2020, registered under Sections 324, 323, 34, 302 of the Indian Penal Code (Section 308 of the IPC added later on), at Police Station Sardulgarh, District Mansa.

2. Custody Certificate of the Petitioner filed on behalf of the State, today; Be kept on record.

3. The Petitioner has by now remained in detention for almost a year since 31.10.2020.

4. It has been contended on behalf of the Petitioner that the offence under Section 302 of the IPC was added three months after the original FIR was lodged, and that totality of the facts narrated in the FIR would not indicate any intention to kill the victim Budh Singh, who

according to the Post Mortem conducted on the body on 14.01.2021 was found to have “*Old Operated scar mark over both frontal region of skull on dissection Subcutaneous infiltration of blood present. On further Dissection craniectomy defect seen in both frontal region of skull.*”

5. It is, thereafter, sought to be emphasized that even according to the opinion of the Autopsy Surgeon, “*the cause of death is sequelae of head injury and its complications.....*”, which is also mentioned in the Reply filed on behalf of the State.

6. Now, according to Ld. Counsel for the Petitioner, the FIR states that the occurrence had taken place due to a quarrel between neighbours in which the accused persons had allegedly assaulted the victim since their children had been stopped from playing outside in the street. There is no indication to the effect that the assault was necessarily with the intention to cause death of the victim since his Post Mortem indicated 'craniectomy defects' which denotes history of brain surgery some time in the past, which fact is not presumed to be within the knowledge of the attacker while assaulting the victim.

7. There appears to be merit in this submission raised on behalf of the Petitioner especially considering the fact that the death of the victim had taken place three months after the original date of occurrence and he was having a history of 'craniectomy defects'.

8. Trial in the case is yet to commence even the first witness from the Prosecution side has not yet been examined.

9. In the circumstances, this Court is of the opinion that further detention of the Petitioner, at this stage, for an indefinite period, is not called for. As such, he is ordered to be released on bail to the satisfaction of the Ld. Trial Court/Duty Magistrate Concerned.

10. Disposed off.

October 28, 2021
Dpr

(SUDIP AHLUWALIA)
JUDGE

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