

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

119+208

CRM-M-18263-2021 (O&M)
Date of decision : 20.05.2021

DALBIR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Manvinder Singh Dalal, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to
Covid-19 pandemic.

CRM-14615-2021

For the reasons given in the application, it is allowed.

Annexure P-5 is taken on record.

Main case

This is the second petition under Section 439 of the Code of
Criminal Procedure, 1973 for grant of regular bail in case FIR No.159 dated
04.10.2019 under Sections 323, 34 and 506 of the Indian Penal Code, 1860
registered at Police Station Sadar, Kaithal and Sections 148, 149 and 302 of
the Indian Penal Code, 1860 were added later on.

As per version of the prosecution, FIR has been registered on the statement of Ajay on the allegation that Balbir and his two sons, namely, Rinku and Aman and his brother-in-law, Dalbir (present petitioner) attacked the complainant and his brother Gurmeet, who expired as a result of the injuries sustained by him.

Counsel for the petitioner has contended that the petitioner is alleged to have given a stick blow on the arm of the complainant. He has referred to the MLR (Annexure P-3) to submit that the injury (injury No. 3), attributed to the petitioner has been declared to be simple in nature. It is his argument that the occurrence is alleged to have taken place at 07:00 A.M. in the morning on 04.10.2019 and the deceased, Gurmeet, was medically examined at 08:10 A.M. whereas the complainant got himself admitted in the hospital at 02:10 P.M. He submits that the injuries allegedly suffered by the complainant are self-inflicted. Still further, it is his argument that Gurmeet expired on 20.10.2019, that is more than two weeks after the alleged incident and his death has no nexus with the injuries allegedly received by him. Counsel submits that after the dismissal of his first petition (CRM-M-21539-2020) for grant of bail on 13.08.2020, charges have been framed, though the trial is not progressing as the Courts are functioning in a restrictive manner due to the resurgence of the virus. Counsel submits that the petitioner who was arrested on 22.10.2019 and has unblemished antecedents, deserved to be enlarged on bail.

Per contra, learned State counsel, upon instructions from ASI Ram Niwas, has opposed the petition. He has instructions to state that the

fatal injury was inflicted by co-accused, Rinku, at the instigation of the petitioner and stick blow on the arm of the complainant has been specifically attributed to the petitioner . He has made a reference to the Status Report filed by way of affidavit of Deputy Superintendent of Police, Headquarter, Kaithal to submit that the charge has been framed against the accused on 24.02.2021 and out of 27 prosecution witnesses none has been examined.

I have considered the rival submissions of the parties.

Keeping in view the facts and circumstances adumbrated above, the involvement of the petitioner in the murder of the deceased, Gurmeet, is debatable.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner which by now is more than one year and six months, nature of allegations, gravity of offences and the fact that the trial is likely to take time to conclude, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

20.05.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No