

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

206

CRM-M No.30330 of 2020

Date of decision:25.03.2021

Ram Mehar @ Kala

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja, Advocate and
Ms. Kirti Ahuja, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

SUVIR SEHGAL J. (ORAL)

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

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.344, dated 20.10.2019 registered under Sections 302 and 34 IPC, 1860, at Police Station Sadar Jind, District Jind.

FIR has been registered by Krishan, uncle of the deceased on the allegation that Ram Mehar @ Kala (petitioner therein) caused injuries on his nephew, Bijender, who was employed as a Helper of a school bus, which resulted in his death.

Counsel for the petitioner has referred to the statement of the alleged eye witness Jasbir Singh recorded under Section 161 Cr.P.C., Annexure P-2, to submit that the deceased used to harass the minor school going daughters of the petitioner. On 20.10.2019, he received

information that a young boy has entered the house of Ram Mehar. When he reached there, he saw that Ram Mehar was hitting the deceased with a cricket bat and his mother, Ramrati was hitting him with a stick. The boy was badly beaten. He rescued him and alongwith Ram Mehar got him admitted in a hospital, where the doctor declared him dead.

Learned senior counsel urges that there was no intention of causing any bodily injury or death of the deceased as the petitioner had acted in self defence and tried to save himself and his family as the deceased had intruded his home in the dead of the night. He has placed reliance upon Section 103 of the Indian Penal Code to buttress his arguments. He has laid much stress on the fact that the petitioner took the deceased to the hospital. He has referred to the order dated 21.09.2020, Annexure P-4, passed by this Court in CRM-M-22123-2020, whereby co-accused, Ramrati, has been granted the concession of bail. He submits that the investigation qua the petitioner is complete, challan has been presented, the trial is likely to take time to conclude and the petitioner, who is behind bars since 21.10.2019, deserves to be enlarged on bail. In order to show his bona fides, learned senior counsel submits that the petitioner shall deposit the original title deeds of 4 acres of agricultural land, which the petitioner owns, with the trial court as surety.

Opposing the petition, learned State counsel upon instructions from ASI Jagdeep Singh, submits that the petitioner has been specifically named in the FIR lodged by the complainant as well as by Jasbir Singh alleged eye witness, in his statement, Annexure P-2. He submits that the petitioner and the co-accused have caused 14 injuries on the person of

the deceased, who died as a consequence thereof. As per his instructions, the cricket bat which was used for assault on the deceased has been recovered and blood strains on the bat matched with the blood of the deceased. Still further, he submits that though the petitioner had admitted the deceased in the hospital but he had tried to hide his identity. He has urged that the petitioner has exceeded the right of self defence as the deceased was not armed. He further submits that the challan has been presented on 06.01.2020, though charge is yet to be framed and the petitioner is not entitled to be released on bail.

I have considered the rival submissions of the parties.

As to whether the petitioner had acted in self defence or as to whether he has exceeded his right of self defence are issues, which are debatable.

Keeping in view the above facts and circumstances, particularly the incarceration of the petitioner of more than one year and five months, nature of allegations, gravity of offence and the fact that the trial is likely to take time to conclude, no purpose would be served by keeping the petitioner behind bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

Petitioner shall simultaneously deposit the original title deeds of four acres of agricultural land which he owns and furnish an undertaking to the effect that he will neither dispose of nor alienate the same during the pendency of the trial. Still further, he shall undertake

that he will not cause any delay in the trial. In case the petitioner violates any of these conditions, it will be open to the State to seek cancellation of the bail.

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

25.03.2021
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(SUVIR SEHGAL)
JUDGE

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