

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.36431 of 2021
Date of Decision: November 12, 2021

Varinder Sharma @ Vicky

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. L.M.Gulati, Advocate,
for the petitioner.

Mr.Ramandeep Sandhu, Sr.DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.265 dated 07.06.2020, under Sections 302, 201 and 34 IPC, 1860, registered at Police Station, Islamabad, District Amritsar, who is in custody since his arrest on 08.06.2020.

The contents of the FIR, as noticed by the Additional Sessions Judge, Amritsar in his order dated 08.01.2021 while dismissing the bail application of the petitioner, are as under:-

“The prosecution was launched on the statement of Seema Rani who has alleged that they are three brothers and sisters and his younger brother Ramesh Kumar alias Vicky was bachelor and was doing the business of artificial ornaments and was living with her mother. On 6.6.2020, at 7.00 p.m., she alongwith her son Rinku went to meet her mother and brother at Neevi Abadi, Kishan Kot, Islamabad, Amritsar and she saw that smoke was coming out of the house. She called her mother

and told about the smoke on which her mother informed that she was at the house of her cousin Sapna and even her sister-in-law Annu had gone to her parents house alongwith the daughters and only Ramesh was at the home. Her mother further asked as to what had happened. She alongwith her son Rinku entered the house and saw that in the room, adjoining to the main gate, there was lot of blood on the ground and bed and beddings were already burnt and smoke was coming out. Thereafter, she alongwith her son went to the second room and saw that near the door of the room, dead body of her brother Ramesh alias Vicky was lying and his face, head, chest and both the arms were totally burnt and he had died. She went outside and cried Mare Gaye, Mare Gaye on which all the people gathered and her mother as well as sister-in-law also came. Thereafter, FIR was lodged.”

Learned counsel for the petitioner has argued that complainant-Seema Rani saw smoke coming out of her house and when she entered, she found dead body of her brother Ramesh Kumar and in the FIR, no person was named. He submits that a supplementary statement of complainant was recorded on the next day, i.e., 08.06.2020, wherein she expressed suspicion upon Sanjeev Kumar, Pawan Kumar and Varinder Sharma @ Vicky (petitioner) as according to her, victim had failed to return the money to Sanjeev Kumar and Pawan Kumar (co-accused of the petitioner). Learned counsel has argued that material witnesses, i.e., complainant (PW-1) and mother of the deceased (PW-2) have already testified before the trial court, but they have not supported the prosecution case, who were declared hostile. He submits that as per prosecution, the injuries were caused to the victim by the other two co-accused and the petitioner was allegedly standing outside the house where the occurrence took place. He prays for bail.

On the other hand, learned State counsel, assisted by SI

Balwinder Singh, has opposed the prayer, but does not dispute this fact that as per prosecution, petitioner was standing outside the house of the complainant, whereas other two accused persons had caused injuries to the victim. According to him, the petitioner also shared common intention with the other co-accused. He further states that in all there are thirty prosecution witnesses and so far only two have been examined.

After hearing the learned counsel for the parties, considering the above background, custody of the petitioner and the fact that the material witnesses have been examined, this court is of the opinion that the further custody of the petitioner may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 08.06.2020. Further, the prosecution is yet to examine its remaining twenty eight witnesses and it may take considerable time to conclude the trial.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Amritsar.

November 12, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No