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

CRM-M No. 35088 of 2020
Date of Decision: 17.02.2021

Jatinder Kumar @ Tejinder @ Gagan

-Petitioner

Vs

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Monita Mehta, Advocate,
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

Mr. Gurmeet Singh, Advocate,
for the complainant.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through
video-conferencing.

CRM No.2537 of 2021

For the reasons mentioned in the application,
accompanying documents are taken on record, subject to just
exception.

Application stands disposed of.

Main case

Petitioner seeks grant of regular bail under Section
439 Cr.P.C. in case bearing FIR No.125 dated 29.12.2018 under

Sections 302, 506, 34 IPC registered at Police Station Mehtiana, District Hoshiarpur.

FIR was registered at the instance of Harbhajan Singh with the allegations that on 28.12.2018, at about 8 PM, he along with son of his parental uncle namely Baljit Singh was going to see his brother who did not return home from the house of Hans Raj. When they reached near the house of Paramjit Singh, then they saw that Tarlok Chand @ Kali, Sahil and the petitioner were lifting and dragging brother of the complainant from the front in an injured condition by holding his hands and legs. In front of them, Tarlok Chand @ Kali hit the head of his brother by a brick near the electricity meter at the chowk. Petitioner gave blows with reverse side of Kirpan. Brother of the complainant died. Sahil held the hand of brother of the complainant and pressed the same between box of electricity meters. Petitioner also gave threats. With this background, the FIR came to be registered.

Learned counsel for the petitioner submits that as per post-mortem report, only three injuries were found on the person of deceased i.e.:

- 1. REDDISH ABRASION 5X4CM WITH CENTRAL ABRADED AKIN IS SEEN ON LATERAL ASPECT OF LEFT CHEST.**
- 2. FRACTURE NASAL BONE BLEEDING**

FROM NOSE AND MOUTH AND EARS.

3. MULTIPLE INCISED WOUNDS RANGING FROM 1.5X0.5CM, SCALP DEEP TO 15X5CM, BONE DEEP PRESENT ALL OVER SCALP, MAIN WOUND IS SEEN OVER BACK OF SCALP, UNDERLYING SKULL BONE IS FRACTURED.

The alleged injuries attributed to the petitioner do not correspond to the injuries found on the person of the deceased. Bare perusal of FIR and the testimonies of other witnesses would not advance the receipt of specific injury by the deceased at the hands of the petitioner. No part of body of the deceased has been mentioned by the complainant as well as other witnesses at which the alleged injury i.e. blows with reverse side of Kirpan ultimately landed. Even in the inquest report, the factum of death having been caused by hitting of brick and pressing of left hand into the box of electricity meter came to fore.

Evidently, the head injury was the cause of death of the deceased.

In the supplementary statement of complainant (Annexure P-7), original allegations have been repeated to the effect that the petitioner gave reverse side blows of Kirpan to his brother without specifying particular injury on specific portion of body of the deceased.

Similarly, statement of Gurdeep Singh under Section 161 Cr.P.C. (Annexure P-8) is also to the same effect. Statement of Baljit Singh i.e. Annexure P-9 is also to the same effect.

On 23.11.2020, learned State counsel sought time to apprise this Court whether any specific injury is attributed to the petitioner. Following order was passed:-

“The case has been taken up for hearing through video-conferencing.

Learned State counsel seeks time to apprise this Court whether any specific injury is attributed to the petitioner. As per allegations, petitioner is alleged to have given blow with reverse side of kirpan. Learned State counsel seeks time to apprise this Court with reference to material collected by the police against the petitioner.

Adjourned to 15.01.2021.”

In pursuance of aforesaid direction, affidavit of Gurpreet Singh, PPS, Deputy Superintendent of Police, Sub Division Hoshiarpur, District Hoshiarpur has been sent in Whatsapp group.

Perusal of the affidavit would show that the allegations in the FIR have been reiterated without specifying any specific injury on the person of the deceased at the hands of the petitioner.

Learned State counsel duly assisted by learned counsel for the complainant however opposed the bail on the ground that the petitioner has participated in the occurrence being part of accused party and has caused injuries to the deceased.

The alleged part attributed to the petitioner would remain debatable in view of injuries depicted in the post-mortem report and the version given by the complainant and other witnesses during investigation.

Petitioner is in custody since 04.01.2019.

At this stage, without forming any opinion on the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

17.02.2021
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

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| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |