

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-42764-2021 (O&M)

Date of Decision:- 14.10.2021

Nirmal Singh

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. P.S.Jammu, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by Inspector Sudhir.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.104 dated 5.11.2018 at Police Station Rori, District Sirsa under Sections 302, 341 and 34 of Indian Penal Code.
2. The FIR was lodged at the instance of Gurcharan Singh @ Charna, wherein it is alleged that his brother Jiwan Singh (deceased) had left the company of his wife Sukhpreet Kaur and had been residing in a 'live-in' relationship with one Sandeep Kaur wife of Nirmal Singh @ Nimma at Sirsa since the last about 7 months. It is alleged that on

5.11.2018, his brother Jiwan Singh had come to his house and when the complainant inquired as regards the purpose of his visit, Jiwan Singh disclosed that he had to deposit installment of his motorcycle. After having tea, Jiwan Singh left the complainant's house and went towards bus stand. At about 1:30 p.m. when the complainant and his brother Baljit Singh were proceeding towards bus stand on foot in order to purchase some household articles, his brother Jiwan Singh was seen coming from bus stand on his motorcycle. In the meantime, Gurpal Singh carrying an axe alongwith Nirmal Singh @ Nimma carrying a sword came in front of the motorcycle of Jiwan Singh and gave a push to him throwing him on the ground. While Jiwan Singh was lying on the ground, Gurpal Singh is alleged to have given a blow with axe on the head of Jiwan Singh and another on his forehead. Nirmal Singh @ Nimma is alleged to have given three blows with sword on the neck of Jiwan Singh. When the complainant and his cousin Baljit Singh tried to go forward towards Jiwan Singh, then Gurpal Singh's mother stopped them and asked her sons to eliminate Jiwan Singh. After causing injuries, the accused ran away from the spot. When the complainant took care of his brother, he was found dead.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case merely on account of the fact that the accused suspected that deceased was having some relationship with wife of Nirmal Singh @ Nimma. Learned counsel for the petitioner has further submitted that, in any case, none of the

two eye-witnesses has supported the case of prosecution and infact both of them have been declared hostile. Learned counsel, in this regard, has referred to the statements of PW-1 Gurcharan Singh @ Charan (Annexure P-2) and of PW-3 Baljeet Singh (Annexure P-3), a perusal of which would show that they have absolutely resiled from their statements.

4. Opposing the petition, learned State counsel has submitted that the mere factum of resiling would not mean that the offence has not been committed by the accused and would rather show that the accused have been successful in intimidating the eye-witnesses. The learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 2 years and 11 months and that he is not involved in any other case. Learned State counsel has further submitted that the complicity of the petitioner would be evident from the fact that a blood stained sword was recovered from him and as per the report of FSL the sword was indeed found to be stained with blood.
5. I have considered rival submissions addressed before this Court.
6. Having regard to the fact that the star witnesses of the prosecution including the complainant have absolutely resiled from their statements, when they stepped into the witness box and while also noticing that the petitioner has been behind bars for a substantial period of 2 years and 11 months, further detention of the petitioner will not serve any useful purpose particularly when the petitioner is not even stated to be involved in any other case. The petition, as

such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

14.10.2021

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No