

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

CRM-M-41573-2020 (O&M)
Date of Decision:- 17.11.2021

Sunny

...Petitioner

Versus

State Chandigarh Administration

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Amit Sharma, Advocate for the petitioner.

Mr. Viranjeet Singh Mahal, Addl. P.P. U.T. Chandigarh

GURVINDER SINGH GILL, J.

CRM-38889-2021

In view of the reasons mentioned in the application, the same is allowed and the document i.e. statement of eye-witness-Sabed is taken on record as Annexure P-3.

Main case

1. The petitioner seeks grant of regular bail in a case registered against him vide FIR No. 127 dated 14.7.2019 under Sections 302/34 IPC at Police Station Mauli Jagran, Chandigarh.
2. The FIR was lodged at the instance of Jatinder Kumar wherein it is alleged that on 13.7.2019 at about 7:30 p.m., his brother Satish left home while saying that he has to collect money from someone and that he is going alongwith Sabed and would return back soon. At about 8-8:15 p.m., Sabed

came running to the complainant and stated that when he and Satish were sitting in a park, two boys who were present there fought with them and that Satish had sustained injury as the said boys had hit him with an empty bottle of beer. It is alleged that complainant's brother was having affair with a girl and that the assailants, in a pre-planned manner and with an intention to kill him had inflicted injuries to his brother who ultimately succumbed to his injuries.

3. The learned counsel for the petitioner has submitted that the petitioner is nowhere named in the FIR and has been falsely implicated. The learned counsel submits that the falsity of the case would be evident from the fact that the complainant as well as the material eye-witness namely Sabed have resiled from their statements, when they were examined during the proceedings of trial. The learned counsel in this regard has drawn the attention of this Court to the testimony of eye-witness PW-12 Sabed (Annexure P-3), a perusal of which shows that he has not identified the accused and has not supported the case of the prosecution at all.
4. Opposing the petition, the learned State counsel has submitted that the prosecution has sufficient evidence to establish its case and that the resiling of the eye-witness would not totally demolish the case of prosecution. The learned counsel has, however, informed that the petitioner as on date has been behind bars since the last about 2 years and 4 months.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that it is Sabed who is the only eye-witness to the occurrence who was accompanying the deceased at the time when the occurrence took place. However, when said Sabed stepped into the witness

box, he did not support the case of the prosecution at all, as would be evident from his statement (Annexure P-3). In any case, the petitioner has been behind bars for a substantial period of 2 years and 4 months. In these circumstances, further detention of the petitioner will not serve any useful purpose.

7. 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.

17.11.2021

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No