

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

CRM-M-43772-2020

Date of decision : 08.01.2021

KRISHAN LAL

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Ashok Paul Batra, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Senior DAG, Punjab.

ALKA SARIN, J. (ORAL)

Taken up through video conferencing.

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.93 dated 27.10.2018 under Sections 302, 506 and 34 of the Indian Penal Code, 1860 registered at Police Station Bahav Wala, Tehsil Abohar, District Fazilka.

The FIR was registered on the statement of one Mohinder Kumar s/o Gopi Ram alleging therein that on 27.10.2018 one Pawan Kumar s/o Mohan Lal came to the house of the complainant and informed him that Pappu Kumar s/o Krishan Kumar was beating the son of the complainant namely Ramesh Kumar and that Ramesh Kumar was tied to a cot in the house of the accused. When the complainant along with his son Rajinder Kumar reached the house of Pappu Kumar, one Surinder Kumar s/o Sahib Ram was standing outside the house and stopped them from going inside. The complainant's son is alleged to have been given

beatings with sticks by Pappu Kumar, his wife and father Krishan Lal. The police reached the spot and the victim was taken to Civil Hospital Abohar where he was declared brought dead.

The learned counsel for the petitioner has contended that one of the co-accused namely Surinder Kumar has been granted regular bail by this Court in CRM-M-45162-2019 vide order dated 15.01.2020. He further contends that Pawan Kumar, one of the eye witnesses, has not supported the case of the prosecution and has since been declared hostile.

Learned State counsel on instructions from ASI Ravinder Kumar has stated that Surinder Kumar who was granted bail by this Court is not similarly situated as the only allegation against him was that he was standing outside the house and was trying to stop the complainant from entering the house and hence the petitioner cannot claim parity with the said accused. Learned state counsel has further pointed out that even Pawan Kumar, the eye witness, who is stated to have not supported the case of the prosecution has in fact supported the case in certain respects wherein he has stated that he had gone to the house of Mohinder Kumar and he had narrated the entire occurrence that accused Pappu Kumar was beating his son Ramesh Kumar and thereafter the complainant along with the other son Rajinder Kumar had gone to the house of Pappu Kumar. He has further stated that the complainant and his son went inside the house of the accused Pappu Kumar. Learned State counsel has thus submitted that qua the occurrence the said witness has supported the case of the prosecution. The learned counsel has further pointed out that the complainant and his son are also eye witnesses.

I have heard learned counsel for the parties.

The reliance of the learned counsel for the petitioner on the order granting bail to the co-accused is of no help to the present petitioner inasmuch as the only allegation against the co-accused was that he was standing outside the house of Pappu Kumar whereas there are specific allegations against the petitioner that he along with co-accused had beaten the deceased thereby leading to his death. The arguments raised by the learned counsel for the petitioner that Pawan Kumar, one of the eye witnesses, has not supported the case of the petitioner also cannot be gone into at this stage since as far as the occurrence is concerned the same stands duly supported by the said Pawan Kumar which is apparent from the perusal of the statement appended with the petition. Further, besides the said Pawan Kumar there are two other eye witnesses of the incident - one being the complainant and the other being the son of the complainant.

In view of the above, I do not find this to be a fit case for grant of regular bail, the petition is hence dismissed.

It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

January 08, 2021

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(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO