

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

-:-

CRM-M-51718 of 2021 (O&M)

Date of Decision: 23.12.2021

Krishan Lal

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. G.B.S. Dhillon, Advocate for the petitioner.

Ms. Anju Sharma Kaushik, DAG Punjab.

ALKA SARIN, J. (Oral)

Heard in physical mode.

This is the second petition 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, 34 of the Indian Penal Code, 1860 (hereinafter referred to as, 'IPC') registered at Police Station Bahav Wala, District Fazilka. The earlier petition (CRM-M-43772-2020) filed by the petitioner was dismissed by a speaking order dated 08.01.2021.

Learned counsel for the petitioner would contend that the change in circumstances is that the eye-witness of the case i.e. PW-2 Pawan Kumar has categorically stated that he only saw the accused - Pappu Ram - giving a beating to the deceased. Learned counsel would further contend that the petitioner has been in custody since 28.08.2019 and there are still 15 witnesses yet to be examined by the prosecution. Learned counsel for the petitioner would further contend that similar situated co-accused has already been granted bail by this Court vide order dated 17.11.2021 passed in CRM-M-44072-2021 titled as "*Santosh Vs. State of Punjab*"

Learned State counsel is not in a position to deny that PW-2, the eye-witness of the incident, has categorically stated that he only saw the accused - Pappu Ram - giving a beating to the deceased, Ramesh Kumar, and the only allegation against the present petitioner is that he was standing next to the accused - Pappu Ram.

Heard.

The petitioner has been in custody since 28.08.2019 and as per the statement of PW-2 no overt act has been attributed to the present petitioner. The only allegation in the FIR and even as per the statement of PW-2 (eye witness) is that the present petitioner was standing next to the co-accused - Pappu Ram - who was seen giving a beating to the deceased. Without commenting on the merits of the case, I deem it fit to grant the concession of regular bail to the petitioner. The petition is allowed and the petitioner is directed to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

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

Disposed off.

December 23, 2021
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(ALKA SARIN)
JUDGE

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