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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-M-49235-2019 (O&M).
Decided on: November 1, 2021.

Jasbir Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

* * *

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

* * *

PRESENT Mr.Amandeep Saini, Advocate,
for the petitioner.

Mr.Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.220 dated 11.10.2017, under Sections 302/34 IPC, registered at Police Station Gate Hakima, Amritsar, District Amritsar.

As per the FIR lodged on the basis of statement of Kulwant Singh son of Gurmeet Singh, he does the work of polishing utensils. They are three brothers and sisters and his father was doing labour work.

He stated that at about 8:30 P.M., he was sitting in his house along with his family members and at that time Jasbir Singh and his elder brother Balwinder Singh alias Lati came in front of their house and in the loud voice they said that why and how you can park activa at the front door of their house. On this, his father Gurmeet Singh came out and tried to make them understand. In the meantime, both the brothers became aggressive and while Jasbir Singh armed with base bat and Balwinder Singh armed with bat and their brother-in-law armed with Sota and their sister Raj came there raising lalkara to teach a lesson for parking activa at the front door of the house. Thereafter, Balwinder Singh caught his father from back and laid him down on the ground and Jasbir Singh gave a base bat blow on the head. In the meantime, Monu gave blow of sota (stick) on the head of his father. Father of the complainant raised voice *maar ditta maar ditta* and after hearing the voice of his father all the family members came out from the house and saw their father lying on the ground. Thereafter, his father died.

Learned counsel for the petitioner has submitted that in the present case, the petitioner is in custody since 13.8.2017 which is more than 4 years and till date no prosecution witness has been examined by the prosecution. Learned counsel further submitted that the petitioner is not involved in any other case and even in the present case, he has been falsely implicated. He submitted that be that as it may, long incarceration of the petitioner may be considered for the grant of regular bail to the petitioner. He also submitted that another co-accused who is the brother of the petitioner namely Balwinder Singh has already been released on bail by this Court although the role of both the accused was different. He has further referred to

the orders passed in the present case by this Court. He has referred to order dated 5.11.2020 in which the learned State counsel had apprised this Court that the matter is pending before the learned trial Court for 11.11.2020 for recording of the prosecution evidence of remaining 4 police officials and it was directed by this Court that in case the needful is not done, adverse inference shall be drawn in the matter. On the next date of hearing, the learned State counsel had informed that the prosecution had filed an application before the trial Court under Section 319 Cr.P.C. which has been allowed and additional accused have been summoned.

On 2.3.2021 learned State counsel had informed that 14 out of the 27 prosecution witnesses have been examined. However, as per the letter written by the learned Additional Sessions Judge, Amritsar, after the summoning of Parminder Kaur co-accused under Section 319 Cr.P.C. and arrest of another co-accused Rajinder alias Monu, police has filed supplementary challan and the petitioner's trial is listed for appearance of co-accused Parminder Kaur and fresh charges are to be framed against all the accused and then all the witnesses are to be re-examined. This Court also observed that before proceeding further with the matter let the State file a report as to why incorrect information was supplied to the Court. Thereafter, status report was filed by the Assistant Commissioner of Police, Central, Amritsar, in which it has been stated that after the examination of 14 prosecution witnesses the additional accused was summoned under Section 319 Cr.P.C. and case is fixed for framing of fresh charges on 17.8.2021. Thereafter, fresh charges have been framed and the witnesses who were examined earlier are to be re-examined.

Mr.Randhir Singh Thind, DAG, Punjab, has submitted that it is correct that the petitioner is in custody since 13.8.2017 which is more than 4 years and the petitioner is not involved in any other case. The factual position is also not disputed that earlier some of the prosecution witnesses were examined and after summoning of additional accused under Section 319 Cr.P.C., fresh charges have been framed. He has further submitted that since it is a serious matter, the petitioner may not be granted bail. However, on a specific query being put that in case the petitioner is released on bail whether there is any possibility that he may influence any witness or tamper with evidence or may flee from justice, learned State counsel has not been able to give any sufficient answer and reason in this regard.

I have heard the learned counsel for the parties.

The custody period of the petitioner is more than 4 years. After examination of some of the witnesses of the prosecution, charges have been framed again and as of now, according to the learned counsel for the parties, no prosecution witness has been examined. It is not the case of the State that in case the petitioner is released on bail then he may influence any witness or tamper with evidence or may flee from justice. Another co-accused namely Balwinder Singh alias Lati who is the brother of the petitioner has already been granted bail by this Court. The long custody of the petitioner which is more than 4 years itself is a relevant factor for the grant of bail to the petitioner.

Therefore, considering the totality of circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner. Accordingly, the present petition is allowed. It is ordered that the

petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

Nocembver 1, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No