

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

CRM-M-3807-2022

Date of Decision: 17th February, 2022

Balraj Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gurdarshan Singh Sidhu, Advocate, for the petitioner.

Ms. Geeta Sharma, Deputy Advocate General, Haryana.

AVNEESH JHINGAN, J. (Oral)

1. Due to Covid-19 situation, the Court is convened through video conference.
2. This is third petition for grant of regular bail in FIR No. 142, dated 21st September, 2018, under Section 302 IPC, registered at Police Station Baragudha, District Sirsa.
3. The second petition for bail, i.e. CRM-M-15485-2021, filed by the petitioner, was dismissed by this Court on 19th April, 2021, by passing a speaking order, which reads thus:-

“ The matter is taken up for hearing through video conference due to COVID-19 situation.

This is the second petition seeking regular bail in FIR No. 142, dated 21st September, 2018 registered under Section 302 of the Indian Penal Code, 1860 at Police Station Baragudha, Distt Sirsa.

The police received an information that one Sukhraj died after receiving the injuries. Statement of Poonam, wife of Sukhraj was recorded. It was alleged that on 20th

September, 2018, Balraj(petitioner) under the influence of liquor entered her house and had an altercation with her husband. The petitioner gave iron pipe blow on the head of Sukhraj, resultantly, he fell down and then 3-4 more blows of iron pipe were given. As the neighbours gathered petitioner ran away from the spot. Sukhraj succumbed to the injuries. During investigation at the instance of petitioner the iron pipe with blood stains was recovered.

Learned counsel for the petitioner contends that the presence of complainant is doubtful, as she being the wife was not present in the hospital and her statement was recorded on the next day. It is further argued that the complainant had an illicit relationship and it was the complainant, who killed her husband. He relies upon the affidavit of the brother of the complainant annexed with the petition to state that his sister was having relationship with Hans Raj.

Learned State counsel opposes the prayer for bail. It is argued that it is a case of eye witness. The recovery of blood stained iron pipe at the instance of the petitioner supports the allegations in the FIR.

It is not for this Court at this stage to go into the allegations vis-a-vis the character of the complainant. The petitioner has been specifically named in the FIR, he is the only accused. At his instance the weapon i.e. iron pipe with blood stains was recovered.

In the present case the complainant is yet to be examined. The non-presence of the complainant in the hospital itself may not be enough to state that she was not an eye witness. The petitioner and the complainant are related to each other, there is every chance of petitioner influencing the witnesses. The apprehension is fortified by the affidavit of the brother of the complainant annexed with the petition, which is an indicator to show that in spite of being behind the bars, petitioner is in a position to influence the witnesses.

No case is made out for grant of bail.

Dismissed.”

4. Learned counsel for the petitioner submits that one of the eye-witness has not supported the case of the prosecution and the other eye-witness has not deposed inspite of given five opportunities.

5. Learned State counsel opposes the prayer and submits that the material witness i.e. one of the eye-witness is yet to be examined. There was recovery of blood stained iron pipe at the instance of the petitioner. She submits that there is chance of petitioner influencing the witness if released on bail.

6. One of the eye-witness is yet to be examined. Apart from the custody during the interregnum period, there is no change in circumstances. Request on behalf of the petitioner can always be made to the Trial Court for expeditious examination of the prosecution witnesses.

7. No ground is made out for grant of bail.

8. Dismissed.

(AVNEESH JHINGAN)
JUDGE

17th February, 2022

Pk Kapoor

Whether Speaking/Reasoned: **YES/~~NO~~**

Whether Reportable: **YES/~~NO~~**