

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

CRM-M-5710-2021

Date of decision: 21.02.2022

Lucky Kumar @ Billa

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Ramandeep Singh Sandhu, Sr.DAG., Punjab.

Mr. Hakam Singh, Advocate.

MANOJ BAJAJ, J.

Petitioner has preferred this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.233 dated 04.12.2016 under Sections 302, 336, 148 and 149 Indian Penal Code, 1860 and Sections 25 and 27 Arms Act, 1959 (charges framed under Sections 304 and 336 IPC and Section 25, 54 and 59 Arms Act) registered at Police Station Maur, District Bathinda, who is in custody since his arrest on 05.12.2016.

The above FIR (Annexure P-1) was registered on the complaint given by Rajinder Singh son of Sukhdev Singh, husband of Kulwinder Kaur (deceased) and the relevant extract of the same reads as under:-

“It is stated that I am resident of the address mentioned above. I and my wife Kulwinder Kaur @ Janu are performing in Cultural programmes. As per marriage programme booked by the owner of Punjab Musical Group, Mohinderpal Singh @ Manga son of Ashok Kumar resident of Sardulgarh, today I alongwith my wife Kulwinder Kaur @ Janu alongwith my mother-in-law Manjit Kaur wife of Baldev Singh, Mazhabi Sikh, resident of Malout alongwith three other girls reached Ashirvad Palace as per marriage programme of Varun Kumar son of Narinder Kumar. My wife Kulwinder Kaur @ Janu was performing dance on a song at the stage at about 11:00 PM and there was full arrangement of lights on stage and Billa who was in front of the stage was carrying 12 bore rifle in his hands alongwith another unknown person, who was also carrying revolver and they alongwith three other baraties were dancing whereas stage secretary Angrej Singh was on the stage. Billa fired with his 12 bore rifle and the shot hit the head of my wife Kulwinder Kaur @ Janu, who died on the spot. I and my mother-in-law Manjit Kaur and Secretary Angrej Singh raised an alarm on which Billa as well as unidentified person who was carrying revolver in his hand, and three other unidentified persons abusing each other ran away from the spot alongwith their weapons. As Billa and his companions were insisting to go on the stage with their respective weapons who were restrained by me and Stage Secretary Angrej Singh, therefore, he fired with his 12 bore rifle at my wife Kulwinder Kaur @ Janu on her head and murdered her on the spot.”

Learned counsel for the petitioner has argued that though the FIR was initially registered for the offence punishable under Section 302 IPC but after investigation, the final report was filed under Section 304-A IPC. He has argued that after filing of the charge-sheet before the Magistrate, it was the prosecution who moved an application for committal of the case as *prima facie* case under Section 304 IPC was made out against the accused. He submits that the petitioner is in custody for a long period and the trial is not making any headway,

therefore, he be released on bail.

The prayer is opposed by Mr. Hakam Singh, Advocate, who has argued that the victim (wife of the complainant) died of a gunshot injury, fired by the petitioner while she was dancing on a stage at a marriage function. According to him, after completion of investigation, the offence punishable under Section 302 IPC was deleted and final report was filed for the offences punishable under Sections 304-A, 336 IPC and Section 30 Arms Act. He submits that though the trial Court also framed the charges against the accused for the offence punishable under Section 304 IPC, but it is clear case of committing the offence of murder punishable under Section 302 IPC and issue regarding alteration of charge under Section 216 Cr.P.C is yet to be finally decided. He prays for rejection of the bail.

Learned State counsel assisted by SI Jaspreet Kaur does not dispute the above sequence and further states that as per the final report, the said occurrence was captured in a videography and petitioner is seen firing the gunshot resulting in death of the victim. According to him, as per final report under Section 173 (2) Cr.P.C, the death of the victim was found to be accidental.

Considering the above background and custody of the petitioner as well as fact that the material witnesses are either close relatives/friends of victim or police officials and there does not seem to be any possibility of their being won over, therefore, this Court deems

it appropriate to release the petitioner on regular bail as his further detention may not serve any useful purpose, who is presently confined in judicial custody after his arrest on 05.12.2016.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

21.02.2022
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No