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

CRM-M-7324-2022

Date of Decision: 07.03.2022

Ramjaan

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Parminder Kaur, Advocate,
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

The petitioner is seeking regular bail in FIR No.272, dated 15.06.2019, under Sections 323, 325, 307, 302 and 34 of the IPC, registered at Police Station Indri, District Karnal.

Learned counsel for the petitioner argues that in the present case, there are two accused, i.e. the present petitioner as well as one Ram Lal, against whom also, the allegations alleged are similar in nature to that of the petitioner. Learned counsel further submits that the said co-accused Ram Lal has already been extended the concession of regular bail by a co-ordinate Bench of this Court, while passing order in CRM-M-22891-2021, and therefore, on the ground of parity, the petitioner is also entitled for the same relief.

Learned State counsel, on instructions from SI Ram Karan, concedes the fact that there are two accused in the present case and co-accused namely Ram Lal, against whom also, the similar allegations have

been alleged, has already been extended the concession of regular bail by a co-ordinate Bench of this Court.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

A co-ordinate Bench, while examining prayer of the co-accused for grant of regular bail in CRM-M-22891-2021, passed the following order:-

“(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.272 dated 15.06.2019 registered under Sections 323, 325, 307 and 302 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Indri, District Karnal.

The above-said FIR was registered on written complaint made by Sunil Kumar to SHO, Police Station Indri, District Karnal. In the written complaint Sunil Kumar, inter alia, alleged that his father Jasmer Singh @ Ajmer Singh, aged about 62 years, was working as salesman on and residing in the liquor vend of Mukesh Kumar. On 01.06.2019 at about 10:00 p.m. he received telephonic call from Sanjeev Kumar, cousin of Mukesh Kumar, that injuries had been caused to his father by some unknown persons. On receipt of the telephonic information, he reached the liquor vend where Sanjeev Kumar and his companion were present. Thereafter, he went to his father and asked him as to who had caused injuries to him on which his father told him that accused Ram Lal and Ramzan had caused injuries on his head and other parts of the body with Binda (handle) of Kassi and lathi on his refusal to give them

liquor on credit. His father was taken to Government Hospital, Indri from where his father was referred to Kalpana Chawla Hospital, Karnal but he got his father admitted for treatment in Virk Hospital, Karnal. The treating doctor told him that left arm and skull bone of his father were fractured. The police investigated the case and arrested the petitioner and co-accused Ramzan and on completion of investigation filed charge-sheet against them.

The petitioner being in custody has filed the present petition for grant of regular bail.

The petition has been opposed by learned State Counsel in terms of short reply filed by way of affidavit of Sh. Mukesh Kumar, HPS, Deputy Superintendent of Police (HQ), Karnal in the Registry which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case on the basis of alleged dying declaration of the deceased. There is no eye-witness and other cogent evidence as to causing of injuries by the petitioner to the deceased. As per death summery Jasmer Singh @ Ajmer Singh died due to cardiac arrest. Initially, the case was registered under Sections 323 and 325 read with Section 34 of the IPC but subsequently Section 307 and on death of Jasmer Singh @ Ajmer Singh Section 302 of the IPC was added. No post mortem was got conducted on the dead body of Jasmer Singh @ Ajmer Singh to ascertain the cause of his death. Medical opinion given by the Board of Doctors on the basis of treatment record of Jasmer Singh @ Ajmer Singh cannot be relied upon regarding the cause of his death.

The petitioner is in custody since 23.07.2019. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner along with his co-accused murdered Jasmer Singh @ Ajmer Singh by causing injuries on his head and other parts of his body. The Board of Doctors opined that cause of death of deceased was head injury and its complications. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the fact that no post mortem examination was conducted on the dead body of the deceased who suffered injuries on 01.06.2019 and died on 01.12.2019, involvement of debatable question as to cause of death of Jasmer Singh @ Ajmer Singh and also the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid- 19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.”

Keeping in view the above, once no differentiating fact has

been pointed out between the petitioner and the said co-accused Ram Lal,

who has already been granted the concession of regular bail, the same relief as extended to the co-accused Ram Lal cannot be denied to the petitioner. On the ground of parity, the petitioner has made out a case for the grant of regular bail.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

07.03.2022*Apurva***(HARSIMRAN SINGH SETHI)
JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : No