

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

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CRM-M-12417-2022

Date of Decision: 01.08.2022

Baljit Singh

.....Petitioner

V/s.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. MS Virk, Advocate for the petitioner

Mr. Karanbir Singh, AAG Punjab

VINOD S. BHARDWAJ, J. (Oral)

(1) The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.258 dated 17.10.2020 under Sections 302/308/323/324/34 IPC registered at Police Station Sardulgarh, District Mansa.

(2) The FIR in hand has been got registered by complainant Manpreet Kaur wife of Mander Singh, r/o Ranjit Garg Bandra on the allegations that on 16.10.2020, at about 8.00 PM Amrik Singh, Baljit Singh (petitioner herein) sons of Jagat Singh, Sona Singh son of Ballu Singh and Shinda Singh son of Gurbachan Singh, residents of Ranjitgarh Bandra came in front of her house and called her father in law Budh Singh into the street. They started speaking loudly with him by saying that how could they (Budh Singh) stop their (Amrik Singh etc.) children from playing in the street. On hearing the noise, complainant came into the street and in her presence, the petitioner gave a *kasia* blow on the forehead of Budh Singh. Then, Sona Singh gave a blow of *dang* on the head of Budh Singh. Complainant started raising alarm of 'marta marta'. Then Amrik Singh inflicted a blow with sword, which landed in

between thumb and fingers of her right hand. Shinda Singh gave two blows with 'dang', one after another, on the head of her father in law. She and her father in law fell unconscious in the street. Her brother in law (devar) Balkar Singh came at the spot and got them admitted in Civil Hospital, Sardulgarh after arranging a vehicle. Her father in law Budh Singh was referred to Sirsa Hospital due to multiple injuries. While getting treatment in the hospital, she noticed a deep cut wound on her hand. She further got recorded in her statement that the motive for causing the injuries was that the complainant party used to stop the children of the accused party from playing in the street.

(3) On the basis of statement of complainant and MLRs of both the injured, FIR was registered under Section 323, 324 read with Section 34 IPC. The head injury on the person of accused Budh Singh was declared dangerous to life by the doctor, upon which, offence under Section 308 IPC was added vide DDR No.67 datd 19.10.2020. Offence under Section 324 IPC was deleted vide DDR No.43 dated 11.12.2020. Statement of injured Budh Singh could not be recorded as he was unable to speak due to injuries.

(4) Perusal of the record further reveals that injured Budh Singh was discharged from the hospital on 18.11.2020 and was getting treatment at home. On 14.01.2021, Mander Singh son of injured Budh Singh got recorded his statement to the police that his father Budh Singh has died and on the basis of his statement, offence under Section 302 IPC was added vide DDR No.33 dated 14.01.2021. Postmortem of the dead body was conducted and as per the postmortem report, the cause of death was sequelae of head injury and its complications, which were antemortem in nature and sufficient to cause death in ordinary course of nature.

(5) Learned counsel for the petitioner contends that the incident in question is stated to have been taken place on 16.10.2020 at 8 PM whereas injured Budh Singh died on 14.01.2021 after a period of 3 months of the incident thus attracting Section 302 IPC. Further, it is contended that the incident in question took place without any pre-meditation and had occurred at the spur of the moment and as such it would be debatable as to whether such offence under Section 302 IPC would be attracted or it would be a case of Section 308 IPC.

(6) It was urged that the petitioner has already undergone an actual custody of approximately 1 year and 10 months and that no prosecution witness has been examined. He does not suffer from any criminal antecedents and that co-accused of the petitioner who is attributed *kirpan* injury on the forehead, has already been granted the concession of regular bail vide order dated 28.10.2021 passed in **CRM-M-16730-2021 (Amrik Singh vs. State of Punjab)**.

(7) Learned State counsel submits that the petitioner is attributed injury with *kasia* on the forehead of the deceased and the said injuries were the cause of death of the deceased. It is not controverted that the death of Budh Singh occurred after 3 months of the incident and that co-accused Amrik Singh has already been granted the concession of regular bail. Besides he does not dispute that no witness has been examined despite the petitioner being in custody for nearly 1 year and 10 months. He fairly concedes that the petitioner does not suffer from any criminal antecedents.

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

(9) Taking into consideration the period of actual custody undergone by the petitioner along with the stage of investigation as also the fact that co-accused of the petitioner Amrik Singh has already been granted the concession of regular bail coupled with the fact that the death occurred 3 months after the incident and that the trial has not progressed any further, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

(10) Accordingly, the instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(11) It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

(12) The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

(13) The petition is allowed.

01.08.2022
V.Vishal

(Vinod S. Bhardwaj)
Judge

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>