

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(222)

CRM-M-17841-2022

Date of decision: - 16.08.2022

Bunty

....Petitioner

Versus

The State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. S.K. Verma, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.04 dated 05.01.2018, under Sections 148, 149, 302, 307, 323, 324, 325, 326 and 506(II) of IPC, registered at Police Station Julana, District Jind.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 07.01.2018 (more than 4 years and 7 months) and out of the total 26 prosecution witnesses, 9 witnesses have been examined and thus, the trial is likely to take time. It is further submitted that the petitioner is not involved in any other case and the FIR in the present case was registered on 05.01.2018 under Sections 148, 149, 307, 323, 324, 325, 326 and 506(II) of IPC and it is only after a period of

10 months that complainant Baljeet died and thereafter, Section 302 IPC was added on 11.11.2018. It is further submitted that as per the FIR, there were three alleged injured persons i.e., Sachin Kumar, Sumit and Monu, who had been stated to have received simple injuries and all the said three injured persons have not supported the case of the prosecution and rather, in their evidence, PW-1 (Sachin Kumar), PW-2 (Sumit) and PW-3 (Monu), they had stated that they had not seen the persons who had inflicted injuries upon them and that the persons who are accused in the present case, including the present petitioner, had never attacked them and had not caused any injuries to them. It is further submitted that even as per the FIR, the petitioner has been attributed with an iron rod blow on the foot of the complainant and a perusal of the MLR would show that there was a mention of pain in the movement of the leg of the complainant and the said injury was declared to be simple in nature and had been caused with a blunt weapon and it was the injury, which had been caused by one Rahul, as per the FIR, which was a lacerated wound in the abdomen of the deceased on account of which, even as per the prosecution case, the death had taken place after a period of 10 months from the alleged incident. It is also submitted that several co-accused of the petitioner including Sanjay and Ajay, have been granted the concession of regular bail by a Co-ordinate Bench of this Court, vide orders dated 12.07.2021 and 08.11.2021, respectively.

Learned State counsel, on the other hand, has opposed the present regular bail and has submitted that the said co-accused Sanjay and Ajay have not been attributed any injury, whereas, the present petitioner

has been attributed a specific injury inflicted on the deceased upon his foot, although, the other factual facts however, have not been disputed by learned State counsel.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 07.01.2018 (more than 4 years and 7 months) and there are total 26 prosecution witnesses, out of whom, only one has been examined, thus, the trial is likely to take time. The petitioner is stated to be not involved in any other case. As per the FIR, there were three injured witnesses, namely, Sachin Kumar, Sumit and Monu and all the said three witnesses have been examined as PW-1, PW-2 and PW-3, respectively and they have not supported the case of the prosecution and have specifically stated that the persons who had caused injuries had come with muffled faces and the accused persons, including the present petitioner, were not the persons who had inflicted the said injuries. The FIR in the present case was registered by the complainant on 05.01.2018 and death had taken place on 11.11.2018 i.e., after a period of more than 10 months from the alleged occurrence and the cause of death was the injuries inflicted by Rahul upon the abdomen of the deceased, as per the prosecution case and the petitioner, as per the FIR, is stated to have inflicted injury on the foot of the complainant, which was declared to be simple in nature and was caused with a blunt weapon. Moreover, the earlier petition filed by the petitioner was withdrawn on 10.05.2018 and even thereafter, a period of more than 4 years and 3 months has elapsed and even the three star witnesses have been examined subsequent

to the said date but have not supported the case of the prosecution, thus, entitling the present petitioner to file the present second petition for grant of regular bail.

Keeping in view the above-said facts and circumstances, more so, the custody of the present petitioner and the fact that he is not involved in any other case, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

August 16, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No