

215 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21653 of 2021(O&M)

Date of Decision: 14.10.2022

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...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Rakesh Kumar, Advocate
For the petitioner.

Mr. C.L. Panwar, Addl. AG Punjab.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 102 dated 04.05.2019 registered under Sections 302, 148 and 149 IPC at Police Station City Kapurthala, District Kapurthala, to which Sections 341 and 201 IPC were added lateron.

The counsel for the petitioner submits that the petitioner was not named in the FIR and was nominated as accused on the basis of the supplementary statement of complainant Raj Kumar father of the deceased. The counsel for the petitioner further submits that the petitioner was arrested and as per prosecution version one *datar* was recovered from his possession. The counsel for the petitioner further submits that the petitioner is behind the bars for last more than 03 years and is having no criminal history. During

trial complainant Raj Kumar has been examined and in his testimony said Raj Kumar has not attributed any specific injury to the petitioner. The counsel for the petitioner further submits that in these circumstances no purpose is going to be served by keeping the petitioner in custody for any longer period as it will take considerable time for the conclusion of the trial.

The present petition is opposed by the State counsel who submits that the petitioner is facing trial in a case relating to murder of Shivam son of complainant Raj Kumar. The State counsel on instructions from ASI Har Parshad has not disputed the fact that the petitioner was not named in the FIR and was later on arraigned as accused on the basis of the supplementary statement of the complainant and that the said complainant has already been examined during the trial and that the petitioner is incarcerated for the last more than 03 years and is having no criminal history.

I have considered the submissions made by counsel for the parties.

As per the allegations appearing in the FIR at the time of occurrence the complainant was going along with his son Shivam on a motor cycle and on the way they were intercepted by Sagar and Gung, both sons of Vijay holding *datars* in their hands, Jodha @ Bira and Baba armed with sharp edged weapons, Pinka @ Batra and Jindu Nai armed with sharp edged weapons and two three unknown persons in the area of Bhagat Singh Chowk, Kapurthala and they attacked Shivam. Sagar gave *datar* blow on the head of Shivam, Jodha gave *datar* blow on the head of Shivam and Gung also gave *datar* blow on the right hand of Shivam. Jindu also gave *datar*

blow which hit on the right hand of Shivam and when Shivam fell on the ground, Harpreet also came at the spot and Baba gave *datar* blow which hit on the left foot of Shivam. The remaining accused gave blows to Shivam with their respective weapons and thereafter the accused persons ran away from there and injured Shivam was taken to hospital where he died.

Admittedly, the petitioner was not named in the FIR and his name surfaced in the supplementary statement of complainant Raj Kumar and consequently he was arrested and one *datar* was recovered at his instance. As per the custody certificate furnished by the State counsel the petitioner is languishing behind the bars for the last more than 03 years and is not involved in any other criminal case. Admittedly, complainant Raj Kumar who witnessed the entire occurrence has been examined during the trial as PW2 and the copy of his statement is Annexure P-5. From the perusal of the testimony of Raj Kumar, it appears that the petitioner has been named in his statement but no specific injury is attributed to the petitioner by said Raj Kumar in his deposition. It will take considerable time for the trial to terminate. As the material witness i.e. complainant has been examined, there is no apprehension that if released on bail, the petitioner is going to influence the complainant.

In view of the above, this Court is of the view that no purpose is going to be served by keeping the petitioner in custody for any longer period.

Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail

subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

14.10.2022

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**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No