

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-22380-2022 (O & M)****Date of decision: 27.05.2022**

Ballu Ram

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Danvir Batish, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in a case FIR No.0082 dated 01.05.2020 (Annexure P-1) under Sections 302, 34 IPC registered with Police Station Sadar Nabha, District Patiala.

2. The brief facts of the case are that the statement of Malkit Singh son of Ballu Ram was recorded to the effect that on 01.05.2020, he had gone to buy a Tullu pump from the shop of Binder Singh Fauji and when he came back at about 09.30 a.m. with the Tullu pump and entered his house, he saw that his father Ballu Ram (petitioner herein), his uncle Jagna son of Jyoti Ram and his son Rikhi were beating his mother Rani Kaur in the *varandaha* of the house. His mother-Rani Kaur, in order to save herself ran towards a street and 3/4 persons ran after his mother. His father took an axe lying at the gate into his hand and gave a blow of the same on the left side of the head of his mother. His uncle Jagna and his son Rikhi raise a *lalkara*

that his mother be not spared. Thereafter, all the accused ran away from the spot and axe used in the occurrence was left there.

3. The learned counsel for the petitioner submits that the statement of the complainant-Malkit Singh has been recorded as PW-2, that of Jagdish Singh @ Fauji as PW-3 and Karnail Singh @ Kaily as PW-4 and none of them have supported the case of the prosecution. He further submits that the petitioner is in custody since 01.05.2020 and only 5 of the total 18 prosecution witnesses have been examined. Thus, the further incarceration of the petitioner is not required because the trial is not likely to be concluded in the near future.

4. The learned State counsel, on the other hand, submits that the petitioner is the main accused having assaulted the deceased, who happens to be the mother of the complainant. He, however, admits the period of custody undergone by the petitioner as also the fact that the material prosecution witnesses have been examined and have not supported the case of the prosecution.

5. I have heard the learned counsel for both the parties.

6. Admittedly, in the present case, three material prosecution witnesses have not supported the case of the prosecution, and thus, they have been declared hostile. The Hon'ble Suprem Court in "***Dr. Gokarakonda Naga Saibaba versus State of Maharashtra, 2016(2) RCR (Criminal) 675***" and this Court in "***Devender @ Devender Chhabra @ Tintu versus State of Punjab, CRM-M-27957-2015 decided on 22.08.2016*** and "***Monu versus State of Haryana, CRM-M-11923-2022 decided on 07.04.2022***" has held that grant of bail can be considered where witnesses stand examined.

7. In the present case, since three prosecution witnesses have been examined and have not supported the case of the prosecution, it would be a

matter of adjudication during the trial as to whether the other evidence available against the petitioner is sufficient to hold him guilty.

8. Thus, keeping in view the fact that the petitioner is in custody for more than two years and the trial is not likely to be concluded in the near future, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Ballu Ram is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

May 27, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No