

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

**CRM-M No.23774 of 2022 (O&M)
Date of decision : 30.11.2022**

Firoj Khan @ Foji

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Surinder Singh Duhan, Advocate
for the petitioner.

Mr. Sumit Jain, Addl.AG, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.720 dated 11.12.2019 registered under Sections 302/364/34/120-B IPC and Section 3(v)(II) SC/ST Act, 1989 at Police Station City Jind, District Jind.

Custody certificate by way of an affidavit of Sandeep Dangi, Deputy Superintendent, District Prison (Jind), Haryana on behalf of the respondent has been filed. The same is taken on record.

Counsel for the petitioner has taken this Court through the contents of the FIR registered on the statement made by Jaibir son of Tek Chand, whose son namely Monu was murdered. From the contents it is clear that as per Jaibir, Monu disclosed him that Kalu son of Jai Bhagwan and Firoj son of Chander Khan (present petitioner) picked him from the house of Reena. Kalu gave injuries with hammer on his waist and Firoj gave injuries on the legs of deceased with Binda. He further asserts that

Jaibir while appearing as PW-1 during trial has not supported the case of prosecution and has testified that :-

“We saw that my son Monu was lying unconscious in front of the main gate of our house. I and Sumit at once shifted Monu to Civil Hospital, Jind in the car of Sh. Hari Shankar. The doctor in the hospital firstly advised me to take my son to PGIMS Rohtak. But the condition of my son deteriorated and the doctor started his treatment but my son expired at about 3:00 am (on 11.12.2019) Police came to the Hospital in the morning and it obtained my thumb impression on some blank papers. I do not know who inflicted injuries to my son Monu since deceased and who threw him in front of my house.”

He further submits that likewise PW-2 Sumit brother of the deceased has also not supported the case of prosecution and stands declared hostile. He further contends that the petitioner has already undergone actual custody of 2 years & 11 months. Material witnesses stand examined and in the trial also there are 15 more witnesses yet to be examined and the same is not likely to conclude in the near future.

Learned State counsel on instructions from SI Satish Kumar does not dispute the factual assertions made by the counsel for the petitioner based on the record. However, he submits that the petitioner is a habitual offender and has 4 more FIRs pending against him but it is not disputed that in all other 4 FIRs, the petitioner already stands admitted to bail.

I have heard learned counsel for the parties and have gone through the records of the case.

Without commenting on the merits of the case and keeping in view that the material witnesses already stand examined and have not supported the case of prosecution; there is no direct evidence against the petitioner and taking into consideration the prolonged incarceration already suffered by the petitioner, the present petition is allowed. The petitioner is

ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

30.11.2022
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No