

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

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**CRM-M-31307-2021 (O&M)
Date of decision: 30.05.2022**

SURENDER ALIAS BABLU

....Petitioners(s)

Versus

STATE OF HARYANA

...Respondent(s)

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

Present : Mr. Vinod Ghai, Sr. Advocate with
Ms. Kanika Ahuja and Ms. Mahima Dogra, Advocates
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.0088 dated 03.03.2021 under Sections 302 of the Indian Penal Code, 1860 (Section 34 of the Indian Penal Code, 1860 added later on) registered at Police Station Sadar Sonipat, District Sonipat.

Learned Senior counsel for the petitioner has pointed out that the FIR in question has been registered at the instance of one Santra widow of late Sant Ram relating to death of her brother Randhir. It is contended that the incident in question was informed to the Police on 02.03.2021 and as per the initial version of the complainant, her brother Randhir Singh was alcoholic and was working in a saw mill for making wooden sheets. She had stated that he might have collided with some vehicle under the influence of liquor or might have died due to starvation. Relying upon the said statement, a General Diary entry was made by the Police. Eventually a postmortem was conducted as per which, as many as 17

injuries were noticed on the deceased whereupon a supplementary statement of Santra was recorded on 03.03.2021. In the said supplementary statement, the complainant raised suspicion and pointed out two earlier incidents. It is stated by her that when she pondered over the issue it transpired that on one occasion when she had gone to meet her brother Randhir at the saw mill, Surender S/o Ramkishan, Bobby S/o Ram Kumar residents of Badwasni and their servant Chotu were abusing his brother on account of his having stolen the mobile phone of his nephew Nikhil. Babli wife of Randhir returned phone of Nikhil on the next day i.e. 01.03.2021. She submitted that even prior to the same, an incident had taken place on 28.01.2021 where the said persons had been abusing her deceased brother Randhir for having stolen wooden logs from the plot. She thus raised an apprehension that Surender, Bobby and their servant Chotu have caused death of Randhir by giving injuries to him.

Learned Senior counsel vehemently argues that the allegations levelled by the complainant were not supported by her when she appeared before the trial Court as PW-1. Furthermore her son Vijender also appeared as PW-2 and has not supported the case of the prosecution. He contends that the investigating agency could not attribute any motive for the incident in question and that assuming for the sake of arguments that any incident had taken place in the month of March 2021, the fact that the mobile phone in question had already been returned, nothing survived any further. Regarding the incident that was prior in point of time, there was no immediate cause of action as to why the petitioner and any other person would cause injuries to the deceased.

Per contra, learned State counsel submits that there were 17 injuries sustained on the body of the deceased and that a wooden stick had been recovered

at the disclosure of the petitioner. He contends that the weapon of offence having been recovered, the participation of the petitioner in commission of the said offence stands established. It is further contended that there are as many as 13 witnesses cited by the prosecution and 08 of the said witnesses have already been examined. He points out that the said witnesses have already been summoned by the trial Court on 06.07.2022 and that the prosecution shall ensure that remaining evidence be concluded on the same day.

The aforesaid submission advanced by the learned State counsel is controverted by the learned Senior counsel, who submits that the witnesses have not been appearing before the trial Court and in fact warrants to secure their presence had to be issued by the trial Court. He further contends that there is no evidence to link the petitioner with the commission of the offence and that no motive has also been established. Besides, there is no evidence to suggest that the *lathi* (weapon of the offence) alleged to have been used in the commission of crime was actually used by the petitioner. He further argues that even if the prosecution is likely to conclude its evidence on the next date of hearing, the trial is likely to take a long time before it concludes.

I have heard learned counsel for the parties and have perused the material on record.

The fact that prosecution witnesses have resiled from their testimony and taking into consideration the period of custody undergone by the petitioner, which is more than 01 year, in addition to, the stage of trial, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the

satisfaction of Trial Court/Duty Magistrate, concerned.

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.

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.

(VINOD S. BHARDWAJ)
JUDGE

May 30, 2022

S.Sharma(syr)

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No