

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

CRM-M-34197 of 2021(O&M)

Date of Decision: 18.10.2022

Raj Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Yashpal Thakur, Advocate
For the petitioner.**

Mr. C.L. Pawar, 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. 63 dated 15.02.2020, registered under Sections 302 read with Section 34 IPC at Police Station SAS Nagar (Mohali).

The counsel for the petitioner submits that the petitioner has been falsely implicated in this case. That the petitioner was not named in the FIR and was nominated as accused on the basis of the disclosure of co-accused Sunny Dogar @ Shibu. The counsel for the petitioner further submits that the petitioner is in custody for the last more than 02 years and 02 months and is having no criminal history and only one *danda* is stated to be recovered at his instance. The counsel for the petitioner further submits that the material witnesses namely complainant Yashpal and alleged eye-witness Vikram have been examined during the trial and both of them have not attributed any specific injury or act to the petitioner and simply stated

that the petitioner was also involved in the murder of Deepak Kumar. The counsel for the petitioner further submits that it will take considerable time for the trial to conclude and as such no purpose is going to be served by prolonging the judicial custody of the petitioner.

The present petition is opposed by the State counsel who submits that the petitioner is facing serious charges that he along with Sunny Dogar and one Kuldeep Singh committed the murder of Deepak Kumar. The State counsel on instructions from ASI Harminder Singh has not disputed the fact that the petitioner was not named in the FIR and was later on impleaded as accused on the basis of the disclosure made by the co-accused Sunny Dogar and got effected the recovery of wooden *danda*. The State counsel has admitted the fact that all the material witnesses including the complainant and eye-witness Yashpal have been examined and has further submitted that trial is still going on and at this stage no ground is made out to grant bail to the petitioner.

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

FIR in this case was registered against Sunny Dogar @ Shibu, Kuldeep Singh and one unknown person, in which it has been alleged that on 12.02.2020 at about 10:00 p.m. Sunny Dogar came to the house of complainant Yashpal and told him that his son Deepak Kumar @ Vicky had taken away his mobile phone worth Rs.14,000/- and he should return his mobile phone by tomorrow and then went away. That on 13.02.2020 dead body of Deepak Kumar was found lying in the mortuary of PGI Chandigarh and there are allegations that Deepak Kumar was murdered by aforesaid Sunny Dogar and one Kuldeep Singh with the help of their companions.

Admittedly, the petitioner was not named in the FIR and was impleaded as accused on the basis of disclosure made by co-accused Sunny Dogar. As per the custody certificate the petitioner is in custody for the last more than 02 years and 02 months and is having no criminal history and only one wooden *danda* is stated to have been recovered at the instance of the petitioner. During the trial complainant Yashpal and eye witness Vikram have been examined. Both the said witnesses have not specifically attributed any injury or act against the present petitioner and they simply stated that Sunny Dogar, Kuldeep Singh and the present petitioner inflicted injuries to Deepak Kumar which resulted in his death. As the material witnesses have been examined, there is no apprehension that if released on bail, the petitioner is going to influence the complainant and eye witness. No doubt the trial is going on but it will take considerable time for its conclusion.

In view of the above, this Court is of the view as no specific attribution has been made against the petitioner and he is languishing behind the bars for the last about 02 years and 02 months, 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.

18.10.2022
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No