

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

203

CRM-M-35892 of 2021 (O&M)

Date of decision : 07.03.2022

Jaskaran Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present:- Mr. Ajay Arora, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

The case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

The instant petition has been filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case FIR No.209 dated 10.08.2019 for the offence under Section 302/34 IPC, 1860, registered at Police Station Dabwali Sadar, District Sirsa.

Learned counsel for the petitioner contends that he is in custody since 14.08.2019 and that the trial has not made much progress. It is further submitted that the case of the prosecution is based upon circumstantial evidence and that there is no circumstances as would relate to the petitioner to the commission of offence. It is further argued that as per case of the prosecution, the petitioner along with co-accused Gurdass Singh @ Bagga Singh, had committed the murder of the deceased-Kala as the deceased was

the case of the prosecution the petitioner only caused simple injuries on the non-vital parts of the deceased, while the fatal blow on the head of the deceased was attributed to the co-accused of the petitioner. Besides, there is no material to establish that the recovery effected from the petitioner pertained to the deceased. There is also no evidence to link the recovered phone to the deceased. In any case, the recovery does not establish the commission of the offence by the petitioner.

Learned counsel for the State on the other hand opposed the grant of bail to the petitioner and alleges that the petitioner as well as co-accused had committed the murder of the deceased by inflicting injuries on the head of the deceased-Kala Singh. He further alleges that mobile phone as well as a sum of Rs.700/- were also recovered on the disclosure of the petitioner and the same were taken in possession vide separate recovery memo. It was however, not disputed by learned State counsel that fatal injuries were not attributed to the petitioner. It is further submitted by learned State counsel that only 4 witnesses have been examined in the case so far. There are a total of 18 witnesses that have to be examined and that the trial is likely to take more time to conclude. The petitioner has been in custody since 14.08.2019 and he has already suffered incarceration more than 2 years 6 months and 23 days.

Taking into consideration the fact that fatal injuries on the deceased are not attributed to the petitioner and that the injury allegedly caused by the petitioner is simple and in the nature of bruise on the deceased. The said fatal injuries are attributed to the co-accused who is in custody. The custody of petitioner being more than 2 ½ years coupled

with the fact that final report in the case was filed on 08.11.2019 and that despite more than 2 years, the trial has not made much progress, I deem it fit and appropriate to allow the instant petition.

The petitioner is ordered to be released on regular bail on his furnishing personal/surety bonds to the satisfaction of trial Court.

The instant petition is accordingly disposed of.

07.03.2022
anil

(VINOD S. BHARDWAJ)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>