

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

224

CRM-M-47681-2021

Date of Decision : **August 23, 2022**

BIRKHA DHAMALA @ VINOD KUMAR

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. R.S.Dhull, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 584 dated 9.10.2020 under Section 302 IPC, registered at Police Station Shahabad, District Kurukshetra.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 9.10.2020 and the complainant and some of the other witnesses have already been examined in which the complainant has already turned hostile since he did not support the prosecution version. He submitted that in view of the aforesaid facts and circumstances, the petitioner may be considered for the grant of regular bail.

On the other hand, the learned State counsel submitted that it is a case where as per the allegations the complainant, the petitioner and the deceased were sitting together and then they had alcohol and after

which the complainant left but thereafter the deceased was killed by the present petitioner by giving injuries on the head. He submitted that the entire incident of killing by the petitioner by giving injuries on the head of the deceased was captured in the CCTV footage and which is clearly visible and the petitioner was identifiable. He further submitted that the mere fact that the complainant did not support the prosecution version would not have any effect on the merits of the case in view of the fact that it is a settled law that the effect of witness turning hostile is to be seen at the time of final decision of the case and considering the other corroborative effects that the petitioner was identifiable in the CCTV footage and is clearly visible, the petitioner is not entitled for the grant of regular bail. He submitted that although some of the witnesses have been examined but the remaining witnesses are yet to be examined and considering the aforesaid gravity and the facts and circumstances, the petitioner is not entitled for the grant of regular bail and there is strong apprehension that in case the petitioner is released on bail then he may not only abscond but he may tamper with the evidence or influence the remaining witnesses.

I have heard the learned counsels for the parties.

The petitioner is in custody from 9.10.2020. It has been argued by the learned State counsel that the entire incident of killing by causing injuries on the head of the deceased has been captured in the CCTV footage in which the petitioner is clearly visible as per the learned State counsel. The apprehension expressed by the learned State counsel that in case the petitioner is released on bail then he may not only

abscond from justice but may also influence the witnesses and tamper with the evidence cannot be ignored and carries weight.

In view of the aforesaid facts and circumstances, finding no merit in the present petition, the same is, hereby, dismissed.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

August 23, 2022
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No