

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

CRM-M-44025 of 2020(O&M)

Date of Decision: 11.10.2022

Jai Tirath

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Radhey Shyam, Advocate
 For the petitioner.**

Mr. Naveen Sheoran, DAG Haryana.

**Mr. K.D. Sehra, Advocate
For the complainant.**

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. 415 dated 16.09.2019, registered under Sections 302 read with Section 34 IPC at Police Station Sonipat Sadar, District Sonipat.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is languishing behind the bars for the last about 03 years. The counsel for the petitioner further submits that the petitioner was not specifically named in the FIR and the entire case is based on circumstantial evidence. The counsel for the petitioner further submits that during trial prosecution has already examined 05 witnesses. That the complainant Ramesh Dagar appeared in the witness box as PW4 and he clearly stated that he does not know petitioner Jai Tirath and he

never saw the petitioner in the company of his son Sandeep (deceased). The counsel for the petitioner further submits that prosecution also examined PW5 Shamsheer and PW6 Ajay but they did not support the case of the prosecution. The counsel for the petitioner further submits that it will take time for the trial to conclude and in the given circumstances no purpose is going to be served by keeping the petitioner in custody for any longer period.

The present petition is opposed by the State counsel as well as counsel for the complainant. The State counsel has not disputed the fact that the petitioner is in custody for the last about 03 years and is having no criminal antecedents. He has also admitted the fact that during trial the prosecution examined complainant Ramesh Dagar, Shamsheer, Ajay and Virender. The State counsel further contends that the petitioner and Dalbir are facing trial regarding murder of Sandeep son of complainant Ramesh Dagar. The State counsel further contends that the petitioner gave fatal brick blow resulting in death of Sandeep and that the said brick was recovered and sent to FSL for its analysis. The State counsel further contends that the trial is going on and as such no ground is made out to grant bail to the petitioner at this stage.

The counsel for the complainant contends that aforesaid Shamsheer, Virender and Ajay who were cited as prosecution witness and have not supported the case of the prosecution, were actually present when Sandeep was murdered and they also helped the present petitioner and Dalbir in commission of murder of Sandeep. The counsel for the complainant further contends that Shamsheer, Virender and Ajay are won over by the petitioner and Dalbir and that is why they retracted from their

previous statements, while appearing in the witness box. The counsel for the complainant further contends that the complainant has already filed private criminal complaint against the petitioner, Dalbir, Shamsher, Virender and Ajay with regard to murder of Sandeep and the copy of the same is Annexure P-8. The counsel for the complainant further contends that the present petition deserves to be dismissed as the trial is under progress.

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

The FIR in this case was registered against Dalbir and his cousin (the present petitioner) with regard to murder of Sandeep son of Ramesh Dagar. As per the custody certificate dated 24.08.2022 the petitioner was stated to be in custody in the present case for the last more than 02 years and 10 months and is having no criminal history. After completion of investigation, the police presented the challan and during trial complainant Ramesh Dagar, Shamsher, Virender and Ajay have been examined. It appears that the entire case is based on circumstantial evidence and Shamsher, Virender and Ajay have not supported the case of the prosecution. The report of FSL dated 28.02.2020 copy of which is placed on record, is inconclusive as to whether any blood stains of human being were found on the said brick during its examination in the said laboratory. Undoubtedly, the trial is going on and it will take considerable time for the trial to terminate.

In view of the above, as the complainant and other private witnesses have been examined by the trial Court and three of private witnesses have not supported the case of the prosecution and the report of the FSL is also not conclusive regarding the brick used by the petitioner in

commission of murder of Sandeep, 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.

11.10.2022
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No