

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

CRM-M-51575-2021 (O&M)

Date of decision: 08.12.2022

Gurdeep Singh @ Keeta @ Malkit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Tarun Sharma, Advocate
for the petitioner.

Mr. Shubham Kaushik, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 75 dated 24.06.2020, registered under Sections 302, 148, 149 of the IPC at Police Station Sadar Moga, District Moga.

Learned counsel for the petitioner, at the very outset, relies upon order 17.11.2021 passed in **CRM-M-19946-2021**, vide which co-accused Gurmeet Singh has already been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that as per allegations in the FIR, registered against Balwinder Singh @ Binder, Charanjit Kaur, Kulwinder Singh @ Maddi, Amarjit Kaur @ Nisha, petitioner Gurmeet Singh, Gurdeep Singh @ Kitta and Rinku, it is stated by complainant-Naib Singh that his son Inderjit Singh was unmarried and had illicit relationship with co-accused Amarjit Kaur @ Nisha, who is the daughter of co-accused Balwinder Singh @ Binder and she used to make phone calls to Inderjit Singh. On the date of

incident i.e. 23.06.2020, at about 4.30 AM, when the complainant woke up, he saw that Inderjit Singh was not in his room, therefore, he along with his another son Budh Sigh and brother Ajaib Singh started searching for Inderjit Singh and in the meantime, they heard hue and cries coming from the house of co-accused Balwinder Singh @ Binder. When the complainant and his companions went to the house of Balwinder Singh @ Binder, he found that all the accused persons armed with rod, iron pipe, sticks and petitioner armed with a baseball bat, were beating Inderjit Singh. Thereafter, the complainant called Ex-Sarpanch Harbans Singh, by making a phone call, for getting Inderjit Singh released from the clutches of the accused and he came at the spot. Thereafter, the complainant took Inderjit Singh to Civil Hospital, where he was declared brought dead.

Learned counsel further submits that though the petitioner is the resident of the same village, however, he is not directly related to the family of Balwinder Singh @ Binder, whose daughter was allegedly having illicit relationship with deceased Inderjit Singh.

Learned counsel further submits that the petitioner has been named in the present FIR due to party fraction in the village and there is no specific averment in the FIR against the petitioner regarding causing of any specific injury to the deceased as in the postmortem report, the cause of death is stated to be injuries to vital organs/brain.

Learned counsel further submits that during investigation, no call details of the petitioner with the other accused have been collected so as to prove that the petitioner had a meeting of mind with other accused to commit the offence.

It is further submitted that co-accused Charanjit

Kaur has already been granted the concession of regular bail by this Court primarily on the ground that she is a lady from the family of co-accused Balwinder Singh @ Binder and there is no other person at home to look after the minor children, vide order dated 18.03.2021 passed in CRM-M-44100-2020.

Learned State counsel, on the basis of the affidavit of the Investigating Officer, has, however, opposed the prayer of the petitioner on the ground that the petitioner was named in the FIR and it was alleged that he was having a baseball bat, which has been recovered.

However, a perusal of the said affidavit shows that no scientific investigation was conducted with regard to finding whether the petitioner was called by other accused at 4.30 AM in the morning when deceased Inderjit Singh visited the house of co-accused Balwinder Singh @ Binder to meet her daughter Amarjit Kaur @ Nisha.”

For the sake of brevity, the facts are not reproduced again.

Learned counsel for the petitioner submits that the petitioner is in relation with co-accused Balwinder Singh Binder, however, he is residing in a different house and has no role in the commission of offence, though he is named in the FIR.

Learned counsel for the petitioner further submits that the petitioner is in judicial custody since 24.08.2020 and the statement of the complainant/father as well as brother of the deceased along with one other witness has already been recorded. It is further submitted that since out of total 21 prosecution witnesses, only 03 witnesses have been examined so far, the conclusion of trial is likely to take a long time, therefore, the petitioner may be enlarged on regular bail pending trial.

Learned State counsel has opposed the bail on the basis of the affidavit of the Investigating Officer and has submitted that as per allegations in the FIR, the petitioner was armed with a stick and has given beatings to victim/deceased Inderjit Singh and as per post-mortem report, total 09 injuries were found on the victim, however, he could not dispute the fact that out of total 21 prosecution witnesses, only 03 witnesses have been examined so far, which includes father/complainant as well as brother of the deceased. It is also not disputed that the petitioner was separate in residence and mess from the main accused.

After hearing learned counsel for the parties, without commenting anything on the merits of the case, considering the facts that the petitioner is in long judicial custody i.e. 02 years, 03 months and 15 days; he is not involved in any other case; co-accused of the petitioner has already been granted the concession of regular bail as noticed above and also in view of the fact that conclusion of trial is likely to take some time as out of total 21 prosecution witnesses, only 03 witnesses have been examined so far, the present petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned.

08.12.2022*Waseem Ansari***(ARVIND SINGH SANGWAN)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*