

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-52441-2022

Date of decision : 23.11.2022

Bhag Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.P.S.Ahluwalia, Advocate
for the petitioner.

Mr.Iqbal S.Mann, DAG, Punjab.

Mr.Karanbir Singh, Advocate
for the LR of the complainant.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.141 dated 07.07.2021 registered under Sections 323, 324, 506, 34 IPC (Sections 325, 326 and 201 IPC added later on) at Police Station Samrala, District Ludhiana.

Learned counsel for the petitioner has submitted that the petitioner is a 74 year old person who is suffering from triple vessel coronary artery disease with moderate LV dysfunction and has submitted that the petitioner was not named in the FIR, although co-accused Jagjeet Singh has been specifically named in the FIR. It is further submitted that only one injury, which has been caused to the complainant, is attracting Section 326 IPC and the said injury has been attributed to Jagjeet Singh. It is further stated that a perusal of the FIR would show that two unknown

persons were also stated to be present at the spot but no specific injury has been attributed to the said two persons and the incident had taken place on 05.07.2021, whereas the FIR was registered on 07.07.2021 and the petitioner was implicated in the present case on 19.08.2021 i.e., after a delay of more than 1 month and 13 days from the date of the incident. It is submitted that on the basis of phone call details, it was initially found that the petitioner was not involved in the incident. It is further stated that the petitioner has been in custody since 20.09.2022 and the investigation as well as the presentation of challan is likely to take time and the petitioner is not involved in any other case, thus, no purpose would be served by keeping the petitioner in further incarceration.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the present petitioner is also found to have been involved in the incident in which 8 injuries had been caused to the complainant, out of which one injury has attracted Section 326 IPC.

Learned counsel for the LR of the complainant has submitted that in the present case, the report of the DSP, Khanna dated 20.09.2021 exonerating the present petitioner is cryptic and non-speaking. It is further submitted that 4 injuries had been suffered by the complainant on his head. It is also submitted that the investigation is not complete and the challan has not been presented as yet. It is stated that although the death of the complainant had taken place on 04.09.2021, but the complainant was still pursuing the case at that point which goes to state that the complainant had died on account of the injuries suffered in the present incident.

Learned counsel for the petitioner, in rebuttal, has referred to

the medical opinion dated 16.09.2022 vide which the members of the Board had found that there was tumor in the brain of the deceased and also stated that the cause of death in the present case did not appear to be on account of the injuries which had been suffered by the complainant on 05.07.2021.

On a pointed query raised by this Court to learned State counsel, he has submitted that the police has registered the present case under Sections 323, 324, 506, 34 (325, 326, 201 IPC added later on) and not u/s 302 IPC.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner is stated to be a 74 year old person and perusal of the medical record Annexures P-5 and P-6 would show that the petitioner is suffering from triple vessel coronary artery disease with moderate LV dysfunction. The petitioner was not named in the FIR and although the incident had taken place on 05.07.2021, the FIR has been registered on 07.07.2021. The petitioner had been named as accused on 19.08.2021 as is apparent from perusal of page 14 of the paper book. Out of 8 injuries which had been suffered by the complainant, only one injury attracts Section 326 IPC, which has been attributed to Jagjeet Singh who had been specifically named in the FIR. There were two unknown persons stated to be present at the spot as per the FIR and said two persons had not been attributed any specific injury. Although the petitioner is stated to be one of the persons present at the time of the occurrence as per the supplementary statement made by the complainant, it had been initially found that the present petitioner was not present at the spot considering the call details and the tower locations. Perusal of the medical opinion dated 16.09.2022 (Annexure

P-4) would show that the complainant was also suffering from tumor in his brain and it was stated by the said Medical Board that the cause of death of the complainant which had taken place on 04.09.2021 (after a delay of almost 2 months from the date of occurrence) did not appear to be due to the injuries suffered on 05.07.2021. All the said issues would be finally considered during the course of the trial. It is not in dispute that the petitioner has not been attributed any specific injury and the petitioner has been in custody since 20.09.2022 and the presentation of challan and the trial are likely to take time and the petitioner is stated to be not involved in any other case.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

November 23, 2022

Davinder Kumar