

227 **IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-3258-2023 (O&M)

Date of Decision: 31.05.2023

Karni Singh @ Jaskaran Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Atul Goyal, Advocate
 for the petitioner.

Mr. Harjinder Singh Sidhu, AAG, Punjab.

HARSH BUNGER J.

1. Petitioner (Karni Singh @ Jaskaran Singh) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No.197 dated 12.09.2021 (Annexure P-1), under Section 304 read with Section 34 of the Indian Penal Code (Sections 201 and 302 of the Indian Penal Code, added later on), registered at Police Station Sadar, District Sri Muktsar Sahib.

2. Status report by way of affidavit dated 20.02.2023 of Mr. Jagdish Kumar, P.P.S., Deputy Superintendent of Police, Sub Division Sri Muktsar Sahib, has been filed by State of Punjab, which is already on record.

3. Succinctly, the aforesaid FIR has been registered on the statement of one Harpreet Kaur w/o Gurmeet Singh, who stated that on 01.09.2021 at about 8:00 P.M., there was a loud voice in the street in front of her house, and on hearing this voice, she along with her husband Gurmeet Singh went outside and saw that their neighbour Mangal Singh s/o Man

Singh, Karni Singh s/o Raja Singh, Raja Singh s/o Prithi Singh were quarelling with Lakhwinder Singh and Seepa Singh (both brother(s)-in-law of the complainant). Karni Singh (petitioner) was armed with a *dang* and when complainant's husband (Gurmeet Singh) tried to rescue his brothers then Karni Singh (petitioner) gave a *dang* blow on the head of Gurmeet Singh with full force. On receiving this injury, Gurmeet Singh (husband of complainant) fell on the ground and the accused(s) fled away from the spot with their weapons. The injured Gurmeet Singh was firstly taken to the Civil Hospital, Sri Muktsar Sahib, from where he was referred to the Medical College, Faridkot and finally Gurmeet Singh was admitted to Niwaran Hospital, Bathinda, where he died during his treatment.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR No.197 dated 12.09.2021. It is submitted that a perusal of the FIR would show that there was a quarrel with Lakhwinder Singh and Seepa Singh and not with the deceased Gurmeet Singh, who had intervened in the said quarrel. It is stated that there are major contradictions and discrepancies in the statement of complainant as at one instance, it was stated that the injury suffered by deceased Gurmeet Singh was accidental and on the other hand, the aforesaid FIR has been registered against the petitioner.

5. Learned counsel submits that the petitioner had applied for grant of regular bail before the Court of Sessions Judge, Sri Muktsar Sahib, which was wrongly declined vide order dated 31.08.2022 (Annexure P-5). Learned counsel submits that the petitioner has been in custody in this case since 20.09.2021; investigation in the case is complete, challan stands presented on 22.11.2021 and even charges have been framed on 07.03.2022.

It is further submitted that there are total twenty three prosecution witnesses

cited in this case, however, only two prosecution witnesses have been examined by now. Hence, conclusion of trial will take some time and no useful purpose would be served with further incarceration of the petitioner.

6. Learned counsel for the petitioner further submits that the petitioner is entitled for regular bail due to the long incarceration and also the fact that his co-accused, namely Raja Singh, Mangal Singh and Kala Singh, have already been granted regular bail by a co-ordinate Bench of this Court vide orders dated 20.09.2022 and 05.08.2022 (Annexures P-6 and P-7). It is submitted that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

7. Per contra, learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of the offence. It is submitted that the petitioner is the main accused in the instant case as fatal injury was caused by him and that was the only injury suffered by deceased Gurmeet Singh. It is further submitted that the concession of bail has been extended to co-accused, namely Raja Singh, Mangal Singh and Kala Singh, by taking into consideration their plea that the main accused in this case is Karni Singh (petitioner), who had inflicted the only injury upon deceased Gurmeet Singh, hence, the petitioner cannot drive any benefit of orders dated 20.09.2022 and 05.08.2022, extending concession of bail to the aforesaid co-accused. Learned State counsel, while referring to the status report, submits that as per the post-mortem report, the cause of death of Gurmeet Singh is stated to be the complications of craniocerebral damage, as a result of the injury suffered by deceased Gurmeet Singh, which is sufficient to cause death in the ordinary course of nature. It is further submitted that the weapon used by the petitioner in the commission of crime

has already been recovered from him and sufficient incriminating material/evidence is available on the file indicating the complicity of petitioner and co-accused in the instant case. Accordingly, it is prayed that petitioner shall not be extended the concession of regular bail.

8. I have heard learned counsel for the parties and perused the paper book as well as status report and custody certificate of the petitioner.

9. In the instant case, the petitioner has been specifically named in FIR No.197 dated 12.09.2021 and a specific role/injury has also been attributed to him, which is stated to be a blow with full force on the head of deceased Gurmeet Singh. As per status report, the weapon used in the commission of crime has been recovered from the petitioner. The deceased suffered the only injury (attributed to the petitioner), which has been stated to be sufficient to cause death in the ordinary course of nature. Although, the petitioner was arrested on 20.09.2021 and even charges have been framed in this case, however, in my considered opinion, merely long incarceration cannot be a ground to extend the concession of bail to the petitioner, who is the main accused in the crime and is being tried for a heinous and grave offence of murder of Gurmeet Singh. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav, 2004(2) RCR (Criminal) 254***, Hon'ble Apex Court held as under:

“The condition laid down under Section 437(1)(i) is sine qua non for granting bail even under Section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has

undergone certain period of incarceration (three years in this case) by itself would not entitled the accused to be enlarged on bail, nor the fact that the trial is not likely to be concluded, in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”

10. In the present case, a precious human life has been lost in the occurrence; trial is proceeding and some witnesses already stand examined. The petitioner, who is the main accused, if enlarged on bail then there is a possibility that he might abscond or indulge in influencing the witnesses. Hence, keeping in view the gravity and nature of the offence, I do not deem it fit to extend the concession of regular bail to the petitioner. Accordingly, the present petition is dismissed.

11. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

12. All pending application(s), if any, shall also stand closed.

31.05.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No