

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 3581-2022 (O&M)
Date of Decision: 17.02.2023

Amar Singh

... Petitioner

V/s.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Manoj Tanwar, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 393 dated 24.11.2019 under Sections 148, 149, 323, 324, 341, 302 IPC and Section 3 (2) (v) of SC/ST Act registered at Police Station Nissing District Karnal Haryana.

Learned counsel for the petitioner contends that the petitioner is in custody since 30.11.2019. Learned counsel for the petitioner further contends that initially the FIR was registered against other co-accused along with 50-60 unknown persons and the present case is a version and cross-version of one FIR No. 391 dated 23.11.2019 under Sections 148, 149, 323, 324, 506 IPC (Section 307 IPC added later on) was registered at Police

Station Nissing against Kapil (deceased). Learned counsel submits that the petitioner has been falsely implicated as neither he was involved in FIR No. 391 dated 23.11.2021 nor in the present FIR i.e. FIR No. 393 dated 24.11.2019 and has been named on the basis of disclosure statement of other co-accused and the only allegation qua the petitioner is that he gave fist blows to the brother of the complainant, who succumbed to the injuries sustained during altercation. He submits that as per medical certificate the death of the deceased has been shown to be as '**Natural**' and the cause of death has been mentioned as '**Cardiopulmonary arrest**' (Annexure P-3). He again contends that the recovery of the motorcycle which has been shown to be recovered from the petitioner does not belong to him and except disclosure statement of the other co-accused, there is no evidence on the record against the petitioner, which has no evidential value. He further submits that the challan stands presented and the charges have been framed and no other case is pending against the petitioner and out of total 33 witnesses only 04 have been examined till date and the conclusion of trial will take sufficient time, therefore, the petitioner be enlarged on bail.

Per contra learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious in nature and he was a member of the unlawful assembly, who gave fist and kick blows to the deceased and due to said injuries caused by the petitioner and the co-accused, the deceased expired during the course of treatment. However, he does not dispute the fact that challan stands presented and charges have been framed and nothing

was recovered from the petitioner and material witness i.e. the complainant stand examined.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 30.11.2019.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. As per custody certificate the petitioner is not involved in any other case and as per status report and FSL report of deceased Kapil, the death was caused due to head injury i.e. Injury No. 4 but the same has not been shown to be attributed to the present petitioner. However, during investigation, the motor-cycle which was used in the occurrence was recovered from the possession of the present petitioner but the said fact is disputed by the counsel for the petitioner while submitting that the said motorcycle is not owned by the petitioner and even as per the status report, injuries caused to the deceased by the present petitioner are fist blows and slaps only. Since injury No. 4 which is shown to be the cause of death, has not been attributed to the petitioner, who has been involved in the present case merely on the basis of disclosure statement of co-accused and since the challan stands presented where the charges have also been framed and the material witness stand examined and the trial would take sufficient time, so no useful purpose would be served in keeping the petitioner behind bars.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

- 1. *he shall appear before the Court on each and every date of hearing;*
- 2. *he shall not give any threat or intimidation to the prosecution witnesses;*
- 3. *he shall not indulge in any criminal activity;*
- 4. *he shall not leave India without prior permission of the Court.*

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed.

(DEEPAK MANCHANDA)
JUDGE

17.02.2023
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>