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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.6773 of 2022 (O&M)

Date of decision: 02.03.2023

Jaswant Singh @ Jassa

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Manu Loona, Advocate for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.117 dated 23.12.2018, for offence punishable under Sections 302/34 of the Indian Penal Code, 1860 (in short 'IPC') (Section 325 IPC added later vide Rapat No.25 dated 03.01.2019) registered at Police Station Vairoke, District Fazilka.

The earlier one was dismissed as withdrawn on 19.08.2021.

The new ground for filing this petition is that as on today, the petitioner is in custody for more than 04 years and both the eye-witnesses i.e. PW-1 Sandeep and PW-2 Virender stands examined.

Brief facts of the case are that the FIR was registered on the complaint of Sandeep Singh son of Sulakhan Singh that he has gone to the house of Sandeep son of Kala Singh, who has received a call from the petitioner Jaswant Singh @ Jassa, as there was some dispute regarding payment of money. The complainant along with Varinder

Singh (since deceased) on a motorcycle went to meet the petitioner Jaswant Singh @ Jassa in his village and on the way near the fields of Sherbaj Singh, the petitioner along with 3-4 others was found holding sticks in their hands. The petitioner raised a lalkara and thereafter gave stick blow on the left arm of Sandeep Singh, due to which their motorcycle fell down. Thereafter, the petitioner along with others started giving beatings to Sandeep Singh and later on, he died.

Counsel for the petitioner has submitted that it is stated in the FIR that when Jaswant Singh hit Varinder Singh on his left arm, the motorcycle fell down and he along with Sandeep Singh escaped from the place of occurrence to save their lives.

Counsel for the petitioner has referred to the statement of PW-1 Sandeep Singh son of Sulakhan Singh, who has made similar statement on oath and in the cross-examination, he has stated that no injury was inflicted on the person of deceased Sandeep Singh in his presence. Similar is the statement of PW-2 Varinder Singh, who in his cross-examination has stated that he along with Sandeep son of Sulakhan Singh fled away from the spot as the assailants were chasing them and no injury is inflicted on the deceased in his presence.

It is also submitted that even another PW-3 Veero Bai, mother of the deceased as well as PW-4 Balwinder Singh, who are not an eye-witnesses, stands examined and therefore, there is no possibility for the petitioner to tamper with the prosecution evidence.

Counsel for the petitioner has also submitted that the petitioner is a first offender and is in custody for the last more than 04 years as per the custody certificate dated 05.12.2012, filed in the Court.

It is also contended that there are total 23 PWs and it will take long time in conclusion of the trial as only the official witnesses remain to be examined.

Counsel for the State on the basis of the affidavit of the Investigating Officer has stated that during the investigation, 02 persons namely Paramjit Singh and Gurmeet Singh, who were also arrested as per the disclosure statement were found innocent and it is the petitioner only, who is facing the trial. It is not disputed that the statement of the two main witnesses i.e. PW1 and PW2 already stands recorded.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last more than 04 years; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required; main witnesses have already been examined and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

02.03.2023

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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No