IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(207)

CRM-M-8233-2023 (O&M)
Date of decision: - 19.04.2023

Balwinder Singh @ Binder Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mrs. Anupam Bhanot, Advocate
for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

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VIKAS BAHL, J. (ORAL)

This is the second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.27 dated 23.03.2021, registered under Sections 307, 452, 323, 506, 148 and 149 IPC (Section 302 IPC has been added later on), at Police Station Sadar Patti, District Tarn Taran.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 16.04.2021 and out of total 27 prosecution witnesses, only three have been examined, thus, the trial is likely to take time. It is further submitted that the previous bail application of the petitioner was withdrawn at that stage on 29.09.2021 since the material witnesses had not been examined. It is submitted that

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thereafter, the material witnesses i.e., PW-1 Gurjeet Kaur (complainant), PW-2 Gurpreet Singh (injured), and PW-3 Lakha Singh (injured) have been examined. It is stated that as per the FIR, the main accused in the present case is Chamkaur Singh Fauji, who is alleged to have inflicted injuries on the deceased and during the course of investigation, he has been found to be innocent and an application under Section 319 Cr.P.C. filed by the prosecution to summon him has been dismissed and the prosecution, in all likelihood, will file a revision petition against the said order on account of which the trial is likely to get delayed further. It is argued that as per the FIR there were two incidents, which had taken place i.e., one in the morning at 8.00 AM and the second, during the evening. It is further argued that the petitioner has not been named in the incident which had taken place in the morning and has only been named in the incident which had allegedly taken place in the evening. It is submitted that no injury has been attributed to the petitioner having been caused to the deceased and that the petitioner alongwith Bachitter Singh, Ladi, Mantari Singh, Chanan Singh and Daler Singh, have been attributed injuries to the complainant and her daughter, who have been examined. It is further submitted that even qua the said two persons, no specific injury has been attributed to the present petitioner. It is also submitted that the petitioner is not involved in any other case and has thus prayed for the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner was also armed with a '*dang*' and he alongwith other persons has committed

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the offences in question, in which, one person has died and the other three persons were injured. The other factual aspects, however, have not been disputed by learned State counsel.

This Court has heard learned counsel for the parties and has gone through the paper-book.

Keeping in view the above-said facts and circumstances, more so, the fact that the petitioner has been in custody since 16.04.2021 and out of total 27 prosecution witnesses, only three have been examined, thus, the trial is likely to take time and the fact that the petitioner has not been attributed any injury to the deceased and even with respect to the complainant & her daughter, no specific injury has been attributed to the present petitioner as it is stated in the FIR that the petitioner, alongwith four other persons, had caused injuries to them and also the fact that the main accused in the present case, namely, Chamkaur Singh Fauji, who as per the FIR has been attributed injuries inflicted on the deceased, has been declared to be innocent and that the present petitioner is not involved in any other case, the present petition is allowed and the petitioner is directed to be released on regular 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.

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

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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.

Pending application(s), if any, stand disposed of in view of the above.

(VIKAS BAHL)
JUDGE

April 19, 2023
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Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No

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