

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-9295-2023 (O&M)
Date of Decision: 31.07.2023

HARMESH SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Ms. Supriya Garg, Advocate
for the petitioner.

Mr. Harjinder Singh Sidhu, A.A.G., Punjab.

HARSH BUNGER, J.

Petitioner-Harmesh Singh, has filed this petition, seeking regular bail in case FIR No.203 dated 03.11.2022 (Annexure P-1), under Sections 304 and 429 of the Indian Penal Code, 1860 (in short 'the IPC'), registered at Police Station City Rupnagar, District Rupnagar.

2. Status report dated 24.04.2023 by way of an affidavit of Shri Tarlochan Singh, PPS, Deputy Superintendent of Police, Rupnagar, District Rupnagar (Punjab) on behalf of respondent-State of Punjab, has been filed, which is already on record.

3. Briefly, the afore-said case FIR was registered on the complaint of one Major Singh, who stated that his father namely, Karam Singh, aged about 67 years, does domestic work and had four buffaloes for their livelihood, which were kept in the *bara*. It is stated that his father used to sleep in the *bara* to look after the buffaloes and his wife namely, Kuldeep Kaur, in

a daily routine, went to the *bara* to milch the buffalo at 6:30 a.m. As per the complainant, on 03.11.2022, he received a phone call from his wife Kuldeep Kaur, that neither his father nor one of the buffaloes were there in the farm (*bara*). On receiving the said phone call, the complainant went to the *bara* and he along with his wife started to search for his father and the buffalo and then his wife informed him that there is one buffalo lying in the fields of Dayal Singh and when he went near it, then he found that his buffalo was lying on the ground and about 10 ft. away from it, his father was also lying on the ground and one wire was attached to his body. It is stated that thereafter, the wife of the complainant came there and upon seeing her father-in-law, she started weeping and tried to go near the body, then the complainant stopped her from touching as there may be current in the wire. As per the complainant, he called his cousin Manjit Singh son of Mohinder Singh, whose house was near to the spot and when he came to the spot then he found that the father of the complainant namely, Karam Singh and one buffalo had died due to electrocution. However, in the meanwhile, the other villagers had gathered at the spot. It is alleged that in the field, Harmesh Singh son of Dayal Singh and Dayal Singh son of Dhani Ram residents of Village Paprala, had sown garlic and they had installed wire in the boundary and the same was specifically electrocuted from their motor connection, which was near to the fields and due to this, the father of the complainant namely, Karam Singh and one buffalo had died. Accordingly, the afore-said case FIR was registered against Dayal Singh and Harmesh Singh. Harmesh Singh (petitioner) is stated to have been arrested on 03.11.2022, itself.

4. Thereafter, the petitioner applied for regular bail before the Court of learned Additional Sessions Judge, Rupnagar; which was dismissed vide

order dated 10.02.2023. Accordingly, the present petition has been filed before this Court.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. It is further submitted that the petitioner's mother had filed an application dated 07.11.2022, requesting for an inquiry to be conducted in the instant case FIR. It was prayed that her husband and the son (petitioner) may be declared innocent. Learned counsel for the petitioner submits that in pursuance to the said inquiry conducted by Superintendent of Police, Rupnagar on 01.12.2022 (Annexure P-2), Dayal Singh (father of the petitioner) was found to be innocent. It appears that thereafter, the challan has been presented against the petitioner only. Learned counsel for the petitioner submits that the petitioner had undergone a hip surgery and he has a difficulty to walk. It is submitted that there was no intention on the part of the petitioner to wilfully inflict some kind of violence which would result in the death of Karam Singh. Learned counsel further submitted that there is a lack of knowledge that such an act would ultimately lead to the death of Karam Singh. Learned counsel for the petitioner further submits that no offence under Section 304 of the IPC is made out and if at all, only the offence under Section 304-A of the IPC, would be attracted. It is contended that during the course of trial in the instant FIR, the statement of complainant-Major Singh has been recorded; however, he has not supported the prosecution case by clearly saying that the petitioner was not involved in the incident in question. It is submitted that even in the cross-examination of complainant-Major Singh, it has come out that his father and the buffalo was found in the open space and not in the fields of Dayal Singh and there is no electricity connection near the fields of Dayal Singh.

6. Learned counsel for the petitioner has handed over a copy of the examination-in-chief and cross-examination of complainant-Major Singh, in the Court today, which is taken on record, subject to all just exceptions and is marked as '*Mark X*'.

7. Learned counsel for the petitioner submits that the petitioner was arrested in this case on 03.11.2022 and the trial is going on, which is likely to take some time to conclude. It is stated 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.

8. Per contra, learned State counsel has opposed the plea of the petitioner for grant of regular bail on the ground of seriousness and gravity of offence. While referring to the status report, learned State counsel has submitted that during investigation, it has transpired that petitioner (Harmesh Singh) and his family is in possession of about one acre of land, belonging to Irrigation Department of Punjab and they had sown garlic in the said land. However, in order to protect the garlic produce from stray animals, the petitioner (Harmesh Singh) had fenced the said land with an iron barbed wire and during night, said barbed wire was being attached with the direct electric current. He submits that the cattle shed of the complainant-Major Singh, is in the neighbourhood of the land in possession of petitioner and the deceased used to sleep in the cattle shed, in order to take care of his cattle and in the intervening night of 02.11.2022 and 03.11.2022, one buffalo of deceased Karam Singh got untied and fled towards the land where garlic was sown by the petitioner and when deceased-Karam Singh came to know about the same, then in order to catch, he followed the buffalo but unfortunately, the buffalo and deceased Karam Singh, could not see the

barbed wire, in which, the direct electric current was running and got stuck in the same and died at the spot. It is stated that the electric wire taken into police possession from the spot, was connected to the electricity connection installed in the house of the petitioner (Harmesh Singh), which is in the vicinity of the place of occurrence and it has been verified from the Punjab State Power Corporation Limited that the electricity connection bearing No.R-47MM390319P, has been installed in the name of the petitioner at his house. It is stated that after the submission of the final report (challan) before the Court on 30.01.2023; charges have been framed against the petitioner on 21.03.2023 and the trial is going on. It is submitted that deceased-Karam Singh and the buffalo of the complainant have lost their lives due to the callous act of the petitioner. Learned State counsel submits that in case the petitioner is enlarged on bail then he might influence the witnesses. Accordingly, prayer for dismissal of this petition was made.

9. I have heard learned counsel for the parties and perused the paper book as well as status report filed by learned State counsel.

10. In the instant case, the petitioner was arrested on 03.11.2022 and since then, he is in custody. It is an unfortunate that in the occurrence, one human life has been lost and one buffalo has also expired. However, a perusal of the examination-in-chief and the cross-examination of the complainant would show that according to him, the place of occurrence was not the fields of Dayal Singh (father of the petitioner) but an open space. The contention of the petitioner that the offence under Section 304 of the IPC is not made out, would be a subject matter of trial. Concededly, the petitioner has been in custody from 03.11.2022; the investigation in this case is complete; challan stands presented and the trial is going on, which is likely to take some time to

conclude. Suffice it to say that the complainant in this case i.e. Major Singh, already stands examined and cross-examined.

11. So far as the apprehension expressed by learned State counsel that the witnesses could be influenced by petitioner, suffice it to state that in the event of any such conduct, the prosecution can always approach the competent court for cancellation of bail. Accordingly, it is observed that the State / Prosecuting Agency / State police shall be at liberty to observe the behaviour of the petitioner during bail period, and in case it feels that the petitioner is indulging in influencing any of the witnesses or tampering with the prosecution evidence in any manner or otherwise causing interference with the progress of trial, it shall be open for the State / Prosecuting Agency / State police to move the trial Court for cancellation of bail, which shall be decided by the trial Court on merits.

12. In view of the above, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate / trial Court concerned.

13. However, before release, the concerned Station House Officer be informed and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of the case and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would furnish his telephone number to the concerned Station House Officer and would keep his mobile location on. Petitioner shall appear before the police station concerned on first Monday of every month till the conclusion of trial in this case and every time inform

in writing that he is not involved in any other crime other than the case(s) mentioned in the present order.

14. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.10,000/- and deposit the same with the trial Court. The same would be liable to be forfeited as per law, in case of absence of the petitioner from trial without sufficient cause.

15. Nothing expressed here-in-above 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.

16. The petition is accordingly disposed of.

July 31st, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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