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(224)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9394-2023 (O&M)
Date of Decision: 03.10.2023

SAIF ALI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sandeep Gahlawat, Advocate with
Ms. Amandeep Kaur, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

CRM-37497-2023

The present application has been filed by the applicant-petitioner
for placing on record Annexures P-8 and P-9.

For the reasons mentioned in the application, the same is
allowed and Annexures P-8 and P-9 are taken on record.

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This 2nd petition under Section 439 Cr.P.C. is for the grant of
regular bail in case bearing FIR No.173 dated 28.11.2021 registered under
Section 306 IPC at Police Station Balongi, District SAS Nagar, Mohali.

2. The brief facts of the case are that the statement of one Noor
Mohd. son of Jameel Ali was recorded to the effect that he was a Carpenter
working with Contractor Saif Ali (petitioner) son Maksood Ali. They were
working at the residence of one Varun Sharma. His cousin Shadab Ali son of

Satar Ali and a relative Asif (deceased) son of Satish Khan were also working there with Contractor Saif Ali. All of them had come to meet Saif Ali on 23.09.2021 for work. The Contractor Saif Ali was to pay daily-wages of Rs.550/- per person to him (complainant) and Shadab Ali and Rs.350/- per day to Asif (deceased). However, their dues had not been paid since long. On various demands being made, Saif Ali would threaten them. Because of the non-payment of the dues, they (complainant party and deceased) did not have money to buy food. They were forced to borrow money from masons or electricians to purchase food. On the date of the occurrence, Saif Ali came to the house of Varun Sharma where the construction was being done. On a demand being made for money, he (Saif Ali-petitioner) stated that he would not make any payment and if we had the courage, we could go else where for work. On this, Asif suddenly went to the roof of the house and they (complainant party) ran after him. While running, Asif made a video of himself wherein, he stated that only Contractor Saif Ali was responsible for his death. After making the video, he jumped from the roof. He was taken to the hospital where he was declared dead. Legal action was sought.

3. The learned counsel for the petitioner contends that taking the allegations to be correct, merely because the petitioner was not making payments to the deceased would not by itself amount to abetment as envisaged under Section 306 IPC. In fact, the petitioner did not intend to cause the death of the deceased. There was no positive act of harassment or instigation at the instance of the petitioner. As the petitioner was in custody since 28.11.2021, only 03 of the 18 prosecution witnesses had been examined

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so far and he was a first-time offender, he was entitled to the concession of bail.

4. On the other hand, the learned State counsel while referring to the reply dated 20.04.2023 contends that the petitioner was duly named as the only accused in the FIR. A specific role has been attributed to him of not only denying wages to the deceased but also threatening him. Thereafter, the deceased prepared a video recording wherein he has categorically implicated the petitioner. As the offence was established beyond reasonable doubt, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner is a first-time, in custody since 28.11.2021 and only 03 of the 18 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner shall be a matter of adjudication during the course of trial. Admittedly, the petitioner does not have any criminal antecedents. He is in custody since 28.11.2021 and only 03 of the 18 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In such a situation, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Saif Ali son of Maksood Ali is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform

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in writing each time that he is not involved in any other crime other than the present case mentioned in this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

03.10.2023

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No