

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21128 of 2022
Date of Decision:- 11.04.2023

Sunny Dogar alias Sibbu

....Petitioner

Vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Kapil Aggarwal, Advocate for the petitioner.

Mr. Hakam Singh, AAG Punjab.

KARAMJIT SINGH, J.

Prayer is for grant for regular bail to the petitioner in case having FIR No.63 dated 15.02.2020, registered under Sections 302, 34 IPC, Police Station City Kharar, District SAS Nagar (Mohali).

The FIR in this case was registered against petitioner Sunny Dogar @ Sibbu, Kuldeep Singh and one unknown person on the basis of statement of complainant Yashpal wherein he alleged that on 12.02.2020 at about 10.00pm petitioner came to the house of complainant and told him that his son Deepak Kumar @ Vicky had

taken away his mobile phone worth Rs.14000/- and Deepak Kumar should return his mobile phone by tomorrow and then the petitioner went away from there. That on 13.02.2020 dead body of Deepak Kumar @ Vicky was found lying in the mortuary of PGI Chandigarh and there are allegations that Deepak Kumar was murdered by petitioner, Kuldeep Singh with the help of their companions.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is incarcerated for last more than 3 year and 1 month and is having no criminal history and only one kirch is stated to be recovered at his instance that to from some open place accessible to general public. The counsel for the petitioner further submits that the entire case is based upon circumstantial evidence and during trial complainant Yashpal and alleged eye-witness Vikram are examined. The counsel for the petitioner further submits that the presence of alleged eye witness Vikram at the spot of occurrence seems to be highly doubtful, as even after seeing that the accused persons were beating Deepak Kumar, he remained silent. The counsel for the petitioner further submits that co-accused Raj Kumar is already granted concession of regular bail vide order dated 18.10.2022 in CRM-M-34197-2021. The counsel for the petitioner further submits that petitioner be released on regular bail as it will take considerable time for the trial to conclude.

The present petition is contested by the State counsel who on instructions from ASI Balwinder Singh submits that

petitioner is the main accused who was named in the FIR and was arrested on 17.02.2020 and got effected recovery of Kirch used by the petitioner in committing murder of Deepak Kumar. The State counsel further submits that the occurrence was witnessed by Vikram who while appearing in the witness box clearly named the present petitioner along with Kuldeep Singh and some more persons who were seen by him giving beatings to Deepak Kumar. However, the State counsel has not disputed that complainant and Vikram, both the material witnesses are examined and that further it will take considerable time for the trial to conclude as 17 more witnesses are yet to be examined on behalf of prosecution.

I have considered the submissions made by the counsel for the parties.

The FIR in the present case was registered on the basis of the statement of complainant Yashpal which was recorded after the dead body of Deepak Kumar was found lying in the mortuary of a hospital. As per the testimony of eye-witness Vikram, he saw the accused persons giving beatings to the deceased who was his real brother, at about 10.00 pm on 12.02.2020. As per the counsel for the petitioner, at that time Vikram remained silent and did not interfere and thus making his testimony doubtful.

As per the custody certificate furnished by the State counsel the petitioner is in custody for the last more than 3 year and 1 month and is having no criminal antecedents. Admittedly, the

complainant and eye-witness Vikram are already examined during the trial. So there is no apprehension that if released on bail the petitioner is going to influence the material witnesses. Further, till date prosecution has examined only 6 witnesses out of total 23 witnesses, so it will take considerable time for the trial to conclude. Still further co-accused Raj Kumar is already granted concession of regular bail vide order dated 18.10.2022.

In view of the above, this Court is of the opinion that no purpose is going to be served by keeping the petitioner in custody for any longer period. Thus, without commenting on the merits of the case the present petition is hereby accepted and the petitioner is ordered to be released on bail subject to furnishing bail and surety bonds to the satisfaction of the Trial Court/CJM/Duty Magistrate concerned.

Disposed of accordingly, so also the pending miscellaneous application(s), if any.

11.04.2023
P. Chawla

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No