

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

CRM-M-13566-2023

Date of decision : 15.05.2023

Basant Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kuljit Singh Bal, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached by way of the present petition praying for grant of regular bail in case FIR No.28 dated 19.02.2020, under Sections 302, 394, 323, 148, 149, 379-B, 396 of IPC, registered at Police Station Lopoke, District Amritsar Rural.

As per the facts of case, statement of Harbhej Singh was recorded. It was alleged that on 18.02.2020, he was going on motorcycle and ahead of him, his brother Ajaipal Singh was on his motorcycle and Jugraj Singh was pillion rider. It was alleged that at about 9 o'clock, in the night, the motorcycle of his brother Ajaipal Singh was little behind on the turn of the village then four young persons were standing was on the road. They stopped his brother's motorcycle which he saw in the light of the motorcycle. All the four persons attacked his brother with dattar and other sharp weapons which they were carrying and they attacked with those weapons Jugraj Singh as well, who was pillion rider. His brother Ajaipal Singh suffered serious injuries. Thereafter, after causing injuries to his brother and Jugraj Singh, all the four persons took away the motorcycle of

his brother and escaped from there. He took his brother Ajaipal Singh to Amandeep Hospital where he died. Jugraj Singh was admitted in Hertej Hospital, Amritsar by his relatives. Prayer was made to lodge the FIR and take legal action against the accused. On the basis of same, formal FIR was registered and the investigation commenced. The postmortem of the dead body was conducted. The statements of the relevant witnesses were recorded by the police. During investigation, investigating agencies joined the petitioner in investigation who was already behind bars in FIR No.70 of 2020, under Sections 399/402 of IPC and Section 25 of Arms Act, registered at Police Station Lopoke and the petitioner was arrested on 13.04.2020. Petitioner approached the Court of learned Sessions Judge, Amritsar praying for grant of regular bail. However, after hearing counsel for the parties, learned Sessions Judge, declined the same vide order dated 23.07.2020. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been contended by counsel for the petitioner that it was the blind murder in which the petitioner has been falsely implicated. He submits that as per the allegations made in the FIR, petitioner is not named in the FIR. It is submitted that the investigating agencies arrested the petitioner only on suspicion and no test identification parade was got conducted by the investigating agencies. He submits that the petitioner was shown to have been armed with *dattar*. However, the same was not sent to FSL to connect the petitioner in the offence alleged. He submits that the similarly situated co-accused namely, Harjit Singh @ Gonder and Manpreet Singh @ Manna have already been enlarged on bail by this Court vide orders dated 10.05.2022 and 23.02.2023 respectively. He submits that the petitioner is behind bars from last more than 03 years and

till date, the prosecution has examined only 01 witness, out of 26 prosecution witnesses. He has submitted that the prosecution has prolonged the trial without any justified reason and thus, the Fundamental Right of the petitioner for a speedy trial has been violated. He submits that though the petitioner has no criminal antecedents, however, he has been falsely implicated in one another case i.e. FIR No.70/2020, under Section 399/402 IPC and Section 25 of Arms Act, at Police Station Lopoke only in order to arrest the petitioner in the present case.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He, on instructions from ASI Mukhtiar Singh, has submitted that though the petitioner is not named in the FIR, however, during investigation, petitioner has been identified by the injured witness-Jugraj Singh and thus, the identity of the petitioner cannot be disbelieved. He submits that the recovery of the *dattar* was also effected from the petitioner during investigation. He has submitted that as per the postmortem, the deceased was found to have suffered four stab wounds and thus, recovery of the weapon is also medically corroborated. He submits that in all there are 04 accused, out of which, 02 accused have been granted bail. He further submits that out of 26 prosecution witnesses, only the doctor has been examined till date. He submits that besides the present case, petitioner is involved in one other case i.e. FIR No.70/2020, under Section 399/402 IPC and Section 25 of Arms Act, at Police Station Lopoke and as per the custody certificate, he is not on bail in that case.

I have heard counsel for the parties and perused the record.

The case of the prosecution was registered on the statement of complainant-Harbhej Singh in the FIR. It has been alleged that four unknown persons attacked the brother of deceased and Jugraj Singh.

However, during investigation, petitioner is said to have been identified by the injured witness, Jugraj Singh. The co-accused namely, Harjit Singh @ Gonder and Manpreet Singh @ Manna and have already been granted bail by this Court vide orders dated 10.05.2022 and 23.02.2023 respectively. This Court cannot ignore the fact that the petitioner is behind bars from last more than 03 years. As submitted before this Court, in all, there are 26 prosecution witnesses, out of which, only 01 witness has been examined till date. There is no gainsaying that every accused has a right to speedy trial and in the facts and circumstances of the case, trial is going to take sufficient long time.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case. In case the bail bonds are not furnished within a period of one week from today, further custody of the petitioner beyond one week will not be counted in the present case.

(RAJESH BHARDWAJ)
JUDGE

15.05.2023
m. sharma

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