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

**CRM-M-14400-2022 (O&M)
Date of decision-04.01.2023**

Rajinder Singh @ Bobby

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gaurav Dutta, Advocate for the petitioner.

Mr. Gurpreet Singh, Addl. A.G. Punjab.

Mr. Sunil Chadha, Sr. Advocate with
Mr. Akshay Chadha, Advocate and
Ms. Kashish Aggarwal, Advocate,
for the complainant.

MANOJ BAJAJ, J. (Oral)

CRM-25640-2022

Application is allowed as prayed for.

CRM-25641-2022

Application is allowed and documents Annexures P-5 to P-9
are taken on record.

CRM-49328-2022

Application is allowed and documents Annexures R-1 to R-8
are taken on record.

CRM-49907-2022

Application is allowed and photographs Annexures P-11 are taken on record.

Main Case

Petitioner has filed 2nd petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.112 dated 28.07.2020 registered under Sections 302, 34 and 120-B of Indian Penal Code, 1860 at Police Station Payal, Police District Khanna, District Ludhiana, who was arrested on 01.08.2020.

The contents of the FIR as noticed by the learned Sessions Judge, Ludhiana in order dated 18.12.2020 read as under:-

“The instant case was registered on the statement of Dr.Taranvir Kaur w/o Dr.Simarjit Singh. She made statement that they were three brother and sister. She was having one younger sister who is residing in Canada.Her younger brother Bisheshar Pal Singh was an Advocate. Her mother Rachhpal Kaur was living at village Shahpur with her younger brother. Her brother Bisheshar Pal Singh and mother Rachhpal Kaur were running a brick kiln. On 27.7.2020 at about 8.00 p.m., she received a phone call from her brother Bishehsar Pal Singh that their mother Rachhpal Kaur had suffered injury and she was taken to Apollo Hospital, Ludhiana. Then she and her husband Dr. Simarjit Singh reached said hospital where they saw that her mother had already died. The doctor of Apollo Hospital disclosed them that their mother Rachhpal Kaur had already died before reaching the hospital.

They became upset due to the death of her mother, Rachhpal Kaur. It was late night. On 28.7.2020 she along with her husband Dr.Simarjit Singh and brother Bisheshar Pal Singh went to the brick kiln of her brother Bisheshar Pal Singh where they inquired the matter on their own. On seeing the CCTV cameras installed at the brick kiln they noticed that her mother Rachhpal Kaur was suddenly attacked by one young person with sharp edged weapon. Prior to that one motor cycle of blue black colour came there. One person was stopping the motor cycle at brick kiln. The other person who was wearing a helmet and armed with sharp edged weapon was attacking her mother Rachhpal Kaur. After attacking, the said persons ran away towards village Kaddon on the motor cycle. Her (complainant) mother Rachhpal Kaur was either murdered by Rajinder Singh @ Bobby, Jagwinder Singh @ Jaggi both sons of Gurdev Singh, Guri son of Rajinder Singh @ Bobby, Bahadur Singh, Bittu sons of Gurdev Singh in pursuance of conspiracy or she was got murdered by them from someone else. Besides this, her aunt Jagdish Kaur wife of Pritam Singh and Gurshant Singh son of Pritam Singh residents of Post Office Road, Guru Nanak Mohalla, Doraha now resident of Canada would also be involved in this occurrence because a litigation was going on between her aunt and her mother. On her statement, case was registered.”

Learned counsel for the petitioner has argued that the case of the prosecution hinges upon circumstantial evidence as the victim namely Rachhpal Kaur was allegedly murdered by two unknown persons and the

crime was not witnessed by anyone present at the place of occurrence/brick kiln. He submits that the petitioner has been falsely implicated in the present case as a co-accused on the basis of a criminal conspiracy being nephew of the deceased, who was not even present at the spot. He submits that as per the case of prosecution, two persons reached at the brick kiln and the pillion rider took out a weapon and committed the crime. During the course of hearing, learned counsel has produced the copy of the bail order dated 22.12.2022, and asserted that the co-accused Sawinder Singh @ Shvinder Singh @ Binder, who was driving the two-wheeler, stands released on bail by this Court. He prays for bail.

The prayer is opposed by the learned State counsel assisted by ASI Sikander Raj as well as Mr. Chadha, learned Senior counsel for the complainant, who have argued that the petitioner in fact being nephew of victim's husband wanted to take control of the brick kiln and hired his co-accused namely Sawinder Singh @ Shvinder Singh @ Binder and Mintu Sahni to commit the crime, because the victim had refused to transfer the brick kiln in his name. According to Mr. Chadha, learned Senior Counsel, co-accused was released on regular bail while considering the material relating to the identity of the accused as contained in CCTV footage and as per observations, the said co-accused was wearing a helmet. He submits that the petitioner cannot take advantage of this case, particularly when the vehicle used in the crime is owned by petitioner's wife. However, during the course of hearing, it is not disputed by learned Senior counsel that the owner of the vehicle has not been implicated as an accused.

Learned State counsel, in addition to the submissions made by

Mr. Chadha, learned Senior counsel, has pointed out that in all there are 21 witnesses to be examined by the prosecution and though the complainant namely Dr. Taranvir Kaur has been partly examined, but her brother Bisesarpal Singh is yet to examine before the trial Court.

At this stage, Mr. Dutta, learned counsel for the petitioner further submits that neither the complainant nor her brother were present when the occurrence took place and the case of the petitioner is better than the co-accused, who as per prosecution was present at the spot and has been released on bail.

After hearing the learned counsel for the parties and considering the merits of the case, particularly the custody of the petitioner and the fact that his co-accused has already been released on bail, this Court is of the opinion that further detention of the petitioner behind the bars may not be necessary for any useful purpose. The trial is likely to consume considerable time to conclude as prosecution has to examine 21 witnesses. Apart from it, the material witnesses are either close relatives of the victim or police officials and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

04.01.2023
geeta

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No