

Neutral Citation No.2023:PHHC:130232
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18180 of 2023
Reserved on: 03.10.2023
Pronounced on: 07.10.2023

Ajay alias Kalia

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. H.S. Deol, Advocate for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in case FIR No.403 dated 27.10.2018 registered at Police Station Sadar Kanina, District Mahendergarh under Sections 302, 323, 379, 506, 148, 149 IPC.

2. FIR was lodged on the complaint of Poonam wife of deceased Vivek. As per the complaint, relations between the complainant party and that of the accused party were inimical because of the dispute relating to land and tubewell, on account of which the accused, namely Surender, Naresh; and sons of Surender namely Vijay, Ajay (petitioner) and Billu had entered fight with them on several occasions. On 22.10.2018, accused Ajay alias Kalia - petitioner had a fight with Vivek (deceased) & complainant Poonam, regarding which matter was reported to the Police. Complainant was even medico legally examined. It was further alleged that on 26.10.2018, complainant and her husband were working in the fields. At about 06:15 PM, Surender, Naresh, Ajay (petitioner), Vijay and Billu and Munesh w/o Surender armed with rods, sticks and axe etc. came there. On

seeing them, Vivek asked her (complainant) to go home and call other persons from the village. As the complainant started to leave, she saw that Ajay gave blow with rod on the right leg of her husband due to which he fell down and then all the assailants gave beatings to her husband with various kinds of weapons like rod, sticks, axe and jelly. On raising alarm by the complainant, assailants fled away, taking away the tractor of the complainant standing in the fields. Subsequently, Vivek was declared dead in the government hospital.

3. (i) It is contended by learned counsel that petitioner was arrested on 29.10.2018 and that the only attribution to him is to have given rod blow on the legs of the deceased.

(ii) It is further submitted that final report under Section 173 Cr.P.C has been filed only against petitioner besides Surrender son of Ram Chander, Surrender son of Balwant, Devinder son of Chhote Lal and Ravinder @ Billu; whereas Naresh son of Ram Chander, Vijay son of Surrender and Munesh wife of Surrender have been kept in column No.2 of the challan.

(iii) Learned counsel further contended that during trial, complainant- Poonam has changed the version regarding the weapon in the hands of the petitioner from Kulhari to Saria. Besides, co-accused, Naresh, Vijay and Munesh were found to be innocent, though they were alleged to have given blows with respective weapons to the deceased.

(iv) Still further, it is contended that after recording statement of PW1, on the application under Section 319 Cr.P.C, Naresh, Vijay and Munesh, have been summoned as additional accused to face trial vide order dated 22.02.2022 and that against that order, CRR No.478 of 2022 has been

against them have been stayed.

(v) Learned counsel contended that in view of the afore-said circumstances, trial may take time to conclude; that petitioner is in custody for the last more than 04 years 11 months and so, he be allowed bail.

4. (i) Opposing the bail petition, learned State Counsel pointed out that specific injuries are attributed to the petitioner to have been caused to the deceased. He had not only given the initial blow on the deceased but also joined the other assailants in causing various injuries on the person of the deceased.

(ii) Attention is further drawn towards the fact that as per the MLR, as many as 20 injuries were found on the person of the deceased, out of which, six were in the nature of punctured wounds and three in the nature of lacerated wounds.

(iii) Though it is stated that accused Vijay, Naresh, Munesh and Ravinder alias Billu were initially declared innocent but it is submitted that all four of them have been summoned by the learned trial Court under Section 319 Cr.P.C to face trial as additional accused vide order dated 22.02.2022. Learned State Counsel has placed on record copy of the order dated 15.03.2022 passed by co-ordinate Bench of this Court, as per which CRR No.478 of 2022 was filed against the abovesaid summoning order dated 22.02.2022 and that further proceedings qua petitioners of that petition only were stayed, making it clear that there was no stay of trial against other accused, which may continue. Said order is continuing till 31.10.2023 for which date that revision is now fixed.

(iv) Learned State Counsel submits that since the trial against the petitioner and other accused, who were initially challaned, has not been

stayed in CRR No.478 of 2022, therefore, there is no likelihood of delay of trial, simply because of passing of the order under Section 319 Cr.P.C.

(v) Apart from above submissions, pointing out towards the gravity of the offence and the brutal manner in which murder of Vivek was committed by petitioner & co-accused/ assailants, prayer is made by Ld. State counsel for dismissal of the petition.

5. I have considered submissions of both the sides and have perused the record carefully.

6. No doubt that petitioner is under incarceration for the last 04 years and 11 months as per the custody certificate placed on record but Court cannot ignore the gravity of the offence, inasmuch as petitioner along with co-accused committed murder of Vivek in a brutal manner, as evident from the medico legal report of the deceased revealing as many as 20 injuries on his person. Petitioner also does not have clean antecedents, as he is involved in one more criminal case as per the custody certificate. Trial is not likely to be delayed only because of the order passed by the Court under Section 319 Cr.P.C and because of the challenge to that order, because trial qua the petitioner and the co-accused, who have been initially challaned, has not been stayed.

7. Considering the afore-said facts and circumstances, but without commenting anything on the merits of the case, the present petition stands rejected.

(DEEPAK GUPTA)
JUDGE

October 07, 2023
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No