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(210)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19818-2022

Date of Decision: 29.05.2023

JEET SINGH @ JITA SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Kuldip Singh, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.159 dated 06.09.2020 registered under Sections 458, 302, 323, 148, 149 IPC at Police Station Mamdot, District Ferozepur.

2. The present FIR came to be registered at the instance of Roshan Singh who stated that he had another brother by the name of Ghiva Singh. His brother, father Jagir Singh and mother Thakro Bibi were residing jointly. His (complainant's) legs were afflicted by polio. On 05.09.2020, in the night Raj Singh son of Jeet Singh armed a *Dang*, Baaj Singh son of Jeet Singh armed with a *Dang*, Balvir Singh son of Jeet Singh armed with a *Soti*, Sandeep Singh son of Balvir Singh armed with a *Soti*, Jeet Singh @ Jita Singh (petitioner) son of Fatta Singh, Malwinder Singh @ Bittu son of Bagicha Singh and Jujj Singh, Darshan Singh sons of Makhan Singh came

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there while abusing and raising Lalkaras. All the said persons entered the drawing room and started giving beatings to them (complainant party). Sandeep Singh gave a blow with a *Soti* on him (complainant) on his hands. Balvir Singh gave a blow a *Soti* blow on him (complainant). On raising an alarm, his mother Thakro Bibi (deceased), father Jagir Singh and brother Ghiva Singh rushed towards him (complainant). When his mother came forward to save him then Balvir Singh slapped his mother and gave her punch blows. Then Raj Singh and Baaj Singh held his mother and struck her mouth forcibly on the wall. Because of this, his mother fell down and all the accused started giving blows with legs to her. They (complainant party) raising an alarm and all the accused fled from the spot. The cause of the enmity was an occurrence which had been taken place a few days prior to the present occurrence. His (complainant's) mother died on account of the injuries. Legal action was sought.

3. The learned counsel for the petitioner contends that the petitioner was empty-handed and has not inflicted any injury on anyone including the deceased. In fact, he was of the age of 78 years and has been falsely implicated in the present case. The deceased had received the following injuries; (i) an injury 4 x 2 cm reddish bluish abrasion on the bridge of the nose and (ii) another injury 8 x 6 cm diffuse swelling with reddish bluish bruise on left cheek just below left eye extending to lateral side of left eye from lateral side left sided red eye present on dissection maxillary bone, Zygomatic bone and base of orbit of left sided eye fractured with congestion and infiltration of blood present on dissection C5 C6

vertebrine fractured. Taking the allegations to be true, these injuries had been caused by Balvir Singh, Raj Singh and Baaj Singh. The cause of the death was a fracture of the left sided facial bone and bone of an orbit of the left eye and a cervical spine injury leading to neurogenic shock. He therefore, contends that as the petitioner was in custody since 07.09.2021 and none of the 20 prosecution witnesses had been examined so far, the petitioner was entitled to the grant of bail.

4. A reply dated 29.05.2023 by way of an affidavit of Sandeep Singh, PPS, Deputy Superintendent of Police (Rural) Ferozepur has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that all the accused including the petitioner were a part of an unlawful assembly who brutally assaulted the deceased causing her death. Therefore, the nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail. He, however, concedes that the petitioner is in custody since 07.09.2021, none of the 20 prosecution witnesses had been examined so far and the petitioner is a first-time offender.

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

6. As per the prosecution case, no specific injury has been attributed to the petitioner. Therefore, the question of the culpability of the petitioner with the aid of Section 149 IPC would be a matter of adjudication during the course of Trial. Admittedly, the petitioner is of the age of 78 years. He is a first-time offender. He is stated to be in custody since 07.09.2021 and none of the 20 prosecution witnesses have been examined so far. In this

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situation, the trial of the present case is not likely to be concluded anytime soon. As such, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Jeet Singh @ Jita Singh son of Fatta Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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

29.05.2023

JITESH

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