

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-20131-2023

Date of Decision:-17.05.2023

Balkar Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Neeraj Madaan, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Ranbir Singh Sekhon, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.122 dated 20.08.2022 under Sections 304 & 34 IPC (Section 34 IPC has been deleted later on) registered at Police Station Sadar Jalalabad, District Fazilka.

2. The brief facts of the case are that statement of Mohinder Singh was recorded to the effect that he had two sons and a daughter. His elder son was Baldev Singh and his younger son was Surjit Singh (deceased). His son Surjit Singh was running a medical shop in the village. On 19.08.2022 at about 10.00 pm when his son Surjit Singh was at the shop a telephonic call was received by him (complainant) from his son Surjit Singh (deceased) who stated that Balkar Singh (petitioner) and Bagga Singh sons of Kala Singh along with Makhan Singh, Ex-Sarpanch had given beatings to him.

Thereafter, he (complainant) along with his nephew Bishamber Singh

reached at the spot and the accused persons fled away from there. On an enquiry his son Surjit Singh disclosed that Balkar Singh & Bagga Singh had consumed liquor and all these three persons had given beatings to him including kick blows in his testicles along with sharp incised injuries as well. Thereafter, they (complainant party) brought Surjit Singh home but on account of immense pain in his testicles he was to be taken to the hospital but he expired at home itself. Death of his son Surjit Singh had taken place on account of beatings given by petitioner Balkar Singh, Bagga Singh and Makhan Singh. Legal Action was sought.

Based on the aforementioned complaint, the instant FIR came to be registered.

3. The Counsel for the petitioner contends that no injury had been found on the body of the deceased Surjit Singh as was borne out from the perusal of the PMR (Annexure P-3). A bare perusal of the PMR would also reveal a smell of alcohol coming from the body of the deceased. There was nothing to suggest that death of the deceased was a homicidal one as the histopathological report of the viscera reveals no poison. He therefore contends that taking the allegations to be correct, the offence if any was one under Section 323 IPC and not under Section 304 IPC. As the petitioner was in custody since 23.09.2022, none of the 15 prosecution witnesses had been examined and the petitioner was a first time offender, he was entitled to the concession of bail.

4. The Counsel for the complainant on the other hand vehemently opposed the bail application and contends that the nature of the allegations did not entitle the petitioner to the grant of bail.

5. The Counsel for the State on the other hand also contends that the petitioner did not deserve the concession of bail as prayed for in view of

the fact that he had caused injuries to deceased Surjit Singh. He however, does not dispute the fact that the petitioner is in custody since 23.09.2022, none of the 15 prosecution witnesses had been examined so far and he was a first time offender.

6. I have heard the learned counsel for the parties.
7. The veracity of the prosecution case shall be adjudicated upon during the course of the trial. Admittedly, the petitioner is a first time offender. He is stated to be in custody since 23.09.2022 and none of the 15 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded any time soon. In this situation his further incarceration is not required.
8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Balkar Singh** son of Sh. Kala 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.
9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 17, 2023
Vinay

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