

227 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22191 of 2022(O&M)

Date of Decision: 15.02.2023

Suresh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Sukesh K. Jindal, Advocate for
Mr. Lakshay Bajaj, Advocate
For the petitioner.

Mr. Naveen Sheoran, DAG Haryana.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 227 dated 04.07.2018, registered under Sections 323, 506 read with Section 34 IPC at Police Station Madlauda, Panipat, to which Section 302 IPC was added lateron.

The case of the prosecution is that Dilbagh (since deceased) got recorded his statement with the police that on 26.06.2018 at about 11:00 p.m. DJ was playing in the lane near his house. He went there and requested the concerned persons to stop playing loud music. In the meantime, petitioner Suresh, Sanjay, Mukesh and Mahabir, who were dancing on the dance floor came near the petitioner and started beating him and Sanjay gave rod blow on his back while petitioner Suresh gave *danda* blow, Mukesh and Mahabir gave fist and kick blows to him and in the meantime his cousin Ram Mehar, Ramesh and mother Sajjan Kaur tried to intervene but aforesaid

persons also gave beatings to them. Next morning Dilbagh was taken to Government Hospital, Panipat from where he was referred to PGI, Rohtak, where the police also reached and recorded the statement of Dilbagh and consequently FIR in this case was registered against the petitioner Sanjay, Mukesh and Mahabir. However, lateron Dilbagh died while undergoing treatment in the hospital.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and no specific injury is attributed to him and is lodged behind the bars for the last more than 03 years and 11 months and is having no criminal history. The counsel for the petitioner further submits that during trial mother of the deceased, who also witnessed the occurrence, appeared in the witness box but has not supported the case of the prosecution and in her cross examination the said witness clearly stated that the petitioner and other accused persons never caused any injury to her son Dilbagh and that the copy of her testimony is Annexure P-4. The counsel for the petitioner further submits that it will take time for the trial to conclude. So, prayer is made that the petitioner be granted regular bail.

The present petition is opposed by the State counsel who submits that the petitioner was named in the FIR which was recorded on the statement of Dilbagh who lateron died on account of his injuries which were caused by the accused persons including the petitioner. However, the State counsel has not disputed the fact that the petitioner is in custody for the last about 04 years and is having no criminal history and that the mother of the deceased while appearing in the witness box, during her cross examination, denied that the injuries on the person of her son Dilbagh were caused by the

petitioner. The State counsel further apprised the Court that during trial 07 more witnesses remains to be examined on behalf of the prosecution.

I have considered the submissions made by counsel for the parties.

There is no doubt that petitioner is named in the FIR which was registered on the basis of the statement of Dilbagh, who later on succumbed to his injuries. However, no specific injury is attributed to the petitioner and it is simply stated in the FIR that the petitioner also gave *danda* blows to Dilbagh. During investigation, the petitioner was arrested and he is in custody for the last more than 03 years and 11 months and is having no criminal antecedents. From the perusal of Annexure P-4 it appears that the mother of the deceased who also witnessed the occurrence in question, in her cross examination clearly stated that the petitioner and other accused had not caused any injury to her son Dilbagh, who sustained injuries as he suddenly fell from the tractor which was driven by co-villager. Further, it will take time for the trial to terminate as out of total 22 witnesses, 07 witnesses remain to be examined. This Court is of the view that in the given circumstances no purpose is going to be served by detaining the petitioner in custody for any longer period.

Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

15.02.2023

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(KARAMJIT SINGH)
JUDGE

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