

CRM-35808-2023 in/and
CRM-M-25277-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-35808-2023 in/and
CRM-M-25277-2023
Date of Decision: 31.08.2023

PUNJAB SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.S. Ahluwalia, Advocate
for the non-applicant/petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Inderjit Singh, Advocate
for the applicant/complainant.

JASJIT SINGH BEDI, J.

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The present application has been filed by the applicant-petitioner for placing on record the Zimni report dated 30.11.2022 and screenshots along with CCTV footage as Annexures A-1 to A-3.

For the reasons mentioned in the application, the same is allowed and the Annexures A-1 to A-3 are taken on record.

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The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.256 dated 15.11.2022 (Annexure P-1) registered under Sections 302, 34 and 120-B IPC, 1860 at Police Station Sadar Ferozepur, District Ferozepur.

2. The present FIR came to be registered at the instance of Rajwinder Kaur wife of Ranjit Singh who stated that she along with her husband had gone to City Park Palace, Ferozepur in order to attend the marriage of their neighbour Arshdeep Singh son of Sukhchain Singh. After the wedding, while they were all standing outside the Palace, then Gurjit Singh alias Bhola son of Jagir Singh armed with a Kirch, Sukhchain Singh alias Gullu son of Resham Singh, Gurbhej Singh son of Swaran Singh and Punjab Singh (petitioner) son of Pippal Singh came to the spot and started abusing her husband. Gurjit Singh alias Bhola raised a Lalkara. Thereafter, he gave a Kirch blow on the left side of the chest of her husband Ranjit Singh (deceased). Thereafter, the accomplices of Gurjit Singh alias Bhola started dragging her (complainant's) brother-in-law Gurlal Singh and Gursimran Singh. Meanwhile, Gurbhej Singh picked up a stone from the road and gave a blow of the same on the face of her husband who fell down. On her raising a noise, other persons came to the spot. Meanwhile, Gurjit Singh alias Bhola gave a Kirch blow on the left shoulder of her husband Ranjit Singh while he had fallen on the ground. On the intervention of others, Gurjit Singh alias Bhola along with his hand held Kirch, Sukhchain Singh, Punjab Singh and Gurbhej Singh fled from the spot. Her husband was taken to the Civil Hospital, Ferozepur where he was declared dead. Legal action was sought.

3. The learned counsel for the petitioner contends that as per the contents of the FIR, no specific role has been attributed to the petitioner. Thereafter, during the course of investigation, the supplementary statement of the complainant was recorded on 17.11.2022 wherein, it was stated that

Punjab Singh (petitioner) and Sukhchain Singh had caught hold of her husband from his arms whereas Gurjit Singh alias Bhola had given a Kirch blow to him. Gurmeet Singh and Jagir Singh along with Joginder Singh had been sitting in two different cars outside the wedding venue asking the accused to inflict injuries and come back immediately. He contends that the petitioner had surrendered in Court and had moved an application to preserve the CCTV footage of the place of occurrence to show his innocence. Based on his application, the CCTV footage was preserved. A detailed inquiry was conducted. It was found that the three persons nominated by the complainant in the supplementary statement were in fact not present at the spot and so far as the petitioner was concerned, he had arrived at the spot later and had attempted to stop the occurrence. He was present at the spot even after the occurrence showing his innocence whereas all the other accused had fled away. An application for release from custody and discharge had been dismissed vide order dated 15.03.2023. Meanwhile, as the petitioner had approached the Sessions Judge, Ferozepur by way of a bail application, the said Court had asked the Additional Chief Judicial Magistrate, Ferozepur to pass an appropriate order on the supplementary challan exonerating the accused and the Court of the Additional Chief Judicial Magistrate, Ferozepur had taken cognizance by holding that the audio could not be heard in the CCTV and the conversation that transpired at the time of the occurrence could only be examined during the course of the trial. He contends that as the petitioner was in custody since 13.12.2022 and even as per the best case of the prosecution, the petitioner is said to have raised a Lalkara/caught hold of

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the deceased, he was entitled to the concession of bail as only 02 out of the 31 prosecution witnesses had been examined so far and the petitioner had been in custody since 13.12.2022.

4. On the other hand, the learned State counsel contends that the petitioner was accompanying the main accused who had committed the offence in question. As per the supplementary statement of the complainant, the petitioner is stated to have caught hold of the deceased. Therefore, having played an active role in the occurrence, he was not entitled to the concession of bail. He, however, concedes that the Investigating Agency had exonerated the petitioner and three co-accused who had been named in the supplementary statement of the complainant and it was the Court which had taken cognizance of the offence qua the petitioner. He also concedes that the petitioner is a first-time offender, in custody since 13.12.2022 and only 02 out of the 31 prosecution witnesses had been examined so far.

5. The learned counsel for the complainant while reiterating the arguments raised by the counsel for the State contends that as per the police diaries, the petitioner was one of the main accused. Therefore, he was not entitled to the concession of bail. He, however, concedes that the Investigating Agency had exonerated the petitioner and it was the Court that had taken cognizance.

6. I have heard the learned counsel for the parties at length.

7. Admittedly, initially, no specific role had been attributed to the petitioner after which the complainant vide her supplementary statement stated that the petitioner had caught hold of the deceased. During the course

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of investigation, the Investigating Agency exonerated the petitioner. However, the Court did not agree with the supplementary challan exonerating the petitioner and took cognizance. The petitioner is stated to be in custody since 13.12.2022 and only 02 of the 31 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded in the near future. He is also stated to be a first-time. In the given facts and circumstances of the case, his further incarceration is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Punjab Singh son of Pippal Singh is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. If the petitioners or their 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.

10. 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.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

31.08.2023

JITESH

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