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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29634-2023 (O & M)

Date of Decision: 14.11.2023

Pawandeep @ Happy @ Hansa

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Renu Arora, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, 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.115 dated 15.10.2022 (Annexure P-1) registered under Sections 307, 324, 323, 353, 186, 148, 149 of the IPC at Police Station Sadar, District Kapurthala in which Sections 325, 326 IPC were added later on vide DDR No.018 dated 11.11.2022 and further added Section 302 IPC vide DDR No.018 dated 22.01.2023 and Section 201 IPC was added later on vide DDR No.011 dated 07.02.2023.

2. The brief facts of the case are that the statement of Navdeep Singh son of Ranjit Singh was recorded to the effect that he was serving in the Punjab Police and was posted at Police Station Kotwali, Kapurthala. On 15.10.2022, at about 10.00 AM when he was present at his home, his friend Parminder Singh (deceased) who was serving in the CIA Staff Kapurthala gave him (complainant) a phone call stating that he was going from CIA staff

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Kapurthala towards village Talwandi Mehma in civil dress in a Swift car in connection with some secret duty. When he (Parminder Singh) arrived near Talwandi Mehma, a bus with three passengers was found present at the village and a car make I-20 in which one youngster and one lady were travelling were trying to overtake him (Parminder Singh). However, they suddenly crossed his (Parminder Singh's) car and a hot exchange of words took place. Thereafter, he (complainant) along with his friend Manpreet Singh arrived at the said village to help their friend Parminder Singh. They found Vinay Kumar son of Harbans Lal, Mani @ Fauji son of Malkit and Akwinder Kaur (since granted bail vide order dated 28.04.2023 passed in CRM-M-19917-2023) wife of Vinay Kumar along with Kalu son of Subhash, Pawandeep @ Happy @ Hansa (petitioner) son of Sadhu Singh, Lucky son of Bagga, Ajay son of Kalu, Vishal son of Nandu Ram and 10-12 other persons arguing with Parminder Singh. Then in his (complainant's) presence Vinay Kumar gave a blow with a base ball bat on the head of Parminder Singh with a motive to kill him. The other co-accused also attacked Parminder Singh with their sharp edged weapons, base ball bats, brick stones etc. Vishal gave 2-3 blows of a brick stone on the head of Parminder Singh with a motive to kill him which resulting in Parminder Singh collapsing on the ground. While he (Parminder Singh) was lying on the ground the assailants kept on assaulting him. When he (complainant) and his friend Manpreet Singh tried to rescue Parminder Singh, the accused caused injuries to Manpreet Singh as well. Mani @ Fauji gave a blow of his *dattar* on the rear portion of his (complainant's) head. The other accused also inflicted injuries upon him

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(complainant). On an alarm being raised, the assailants fled away from the spot. The motive for the occurrence was that Vinay Kumar in connivance with the other persons caused obstruction in the performing of official duties by Parminder Singh. Akwinder Kaur wife of Vinay Kumar encouraged others due to which the said assailants had inflicted injuries to Parminder Singh with a motive to kill him.

Based on the aforementioned allegations, initially the instant FIR No.115 dated 15.10.2022 (Annexure P-1) was registered under Sections 307, 324, 323, 186, 148, 149 of the IPC at Police Station Sadar, District Kapurthala came to be registered. Thereafter, the injured Parminder Singh succumbed to his injuries consequent to which Section 302 IPC vide DDR No.018 dated 22.01.2023 was added.

3. The learned counsel for the petitioner contends that no specific role has been attributed to the petitioner in the FIR. During investigation, it transpired that the petitioner had given injuries on the lips of Navdeep and Manpreet Singh with a stone. No injury had been caused to the deceased by the petitioner. Since the petitioner was in custody since 27.01.2023, the report under Section 173 Cr.P.C. stood presented and none of the 22 prosecution witnesses had been examined so far, he was entitled to the grant of bail as he was a first-time offender.

4. On the other hand, the learned State counsel contends that serious allegations had been levelled against the petitioner who was clearly visible in a video recording of the occurrence. He had given stone blows to the injured. The nature of those allegations did not entitle him to the grant of

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bail. In fact, he was a part of the unlawful assembly which caused injuries to Parminder Singh who subsequently succumbed to those injuries. He, however, does not dispute the fact that the petitioner is a first-time offender, in custody since 27.01.2023, none of the 22 prosecution witnesses had been examined so far and that a co-accused had been granted the concession of bail.

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

6. Admittedly, the petitioner has not been attributed any injury on the deceased. Whether or not his culpability for the offence of murder with the aid of Section 149 IPC is established shall be adjudicated upon during the course of Trial. He is a first-time offender, in custody since 27.01.2023 and none of the 22 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. As such, the further incarceration of the petitioner is not required, more so, when a co-accused, namely, Akwinder Kaur, has been granted the similar concession.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Pawandeep @ Happy @ Hansa 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. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present one.

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9. In addition, the petitioner (or anybody on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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

November 14, 2023
sukhpreet

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