

**203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-30468-2022****Date of decision : 26.05.2023****Bharpur Singh @ Bhura****.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Amandeep Singh Rai, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Pushpinder Kaushal, Advocate
for the complainant.

*********RAJESH BHARDWAJ, J. (Oral)**

Petitioner has approached this Court by way of present petition praying for grant of regular bail in case FIR No.69 dated 25.03.2019, under Sections 302, 323, 148, 149, 120-B of IPC, registered at Police Station Samrala, District Ludhiana.

Adumbrated facts of the case are that the statement of Ravinder Singh @ Sonu was recorded by the police wherein it was alleged that his mother Ranjit Kaur was present Sarpanch of the village. In the panchayati election Manjit Kaur wife of Harjinder Singh lost the election as his mother was declared winner. Due to same, there was a rivalry between both the sides. On 24.03.2019, he and his brother Gurpreet Singh @ Laddi were coming from the field. At about 06:30 PM they reached near the shop of Gurjit Singh and at that time accused Jashan Singh and others opened an attack on his brother Gurpreet Singh @ Laddi. In the meantime, his mother also arrived there. They called the

neighbours to save them. However, the accused after having caused the injuries to his brother escaped from the place of occurrence. He along with his mother shifted his injured brother Gurpreet Singh @ Laddi to IVY Hospital, Khanna where he was declared dead. Request was made to take legal action against the accused. On the basis of complaint, formal FIR was registered and investigation commenced. The statement of the relevant witnesses were recorded by the investigating agency. The postmortem of the deceased was conducted and on the very same date supplementary statement of the complainant was recorded i.e on 25.03.2019 wherein the name of the petitioner-Bharpur Singh @ Bhura was also mentioned. It was alleged that he caused injuries to his brother with danda. The petitioner approached the Court of learned Additional Sessions Judge, Ludhiana praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge declined the same vide his order dated 08.09.2021. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been vehemently contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that the complainant who is the alleged eye-witness of the occurrence has lodged the FIR and he has given the details of the accused who caused injuries to the deceased but the name of the petitioner was not mentioned in the initial version of the complainant. However, thereafter in a due deliberated manner supplementary statement of the complainant was recorded on the very same day and the petitioner was also implicated in this case. He submits that the postmortem of the deceased was conducted and as per the postmortem there were 09 injuries detected out

of which maximum injuries are incised wounds which could not be given by a blunt weapon and the petitioner was shown to have been armed with danda which is a blunt weapon. He submits that in all there were 16 accused named by the complainant in his statement and during investigation, remaining 08 accused were found innocent and the challan was presented against rest of the 08 accused. He further submits that now the complainant filed an application under Section 319 Cr.P.C. for summoning rest of the persons to face trial along with the accused who were already facing the trial and application under Section 319 Cr.P.C. has been allowed but this Court has already stayed their summoning by the trial court. He submits that though there is one more FIR against the petitioner under Section 379 IPC, however, is on bail in that case. Petitioner is behind bars from last more than four years and till date, prosecution has not been able to examine the witnesses. He has submitted that *dehors* the merits of the case, every accused has a right to speedy trial which has been miserably defeated in this case.

Learned counsel for the complainant has submitted that name of the petitioner has been mentioned in the supplementary statement which was recorded on the very same date i.e. 25.03.2019. Petitioner was armed with danda and he has duly participated in committing the murder of the brother of the complainant. He submits that in the facts and circumstances, petitioner has no case for the grant of bail. He submits that petitioner on 26.03.2019 along with other main accused who are named in the initial version of the FIR surrendered before the investigating agency.

Learned State counsel has also opposed the submissions made by counsel for the petitioner. He has submitted that the

supplementary statement was recorded on the very same day and petitioner has duly participated in committing the murder of brother of the complainant. He submits that during the pendency of the trial, now the complainant-Ravinder Singh has also been murdered and trial *qua* him is already concluded. He submits that the petitioner has been prosecuted in one more FIR for the offence under Section 379 IPC, however, he is on bail in that case. Recovery of stick has also been effected during investigation from the petitioner. He submits that out of 24 prosecution witnesses, examination-in-chief of the complainant Ravinder Singh has been conducted by the trial Court and the next date before the trial Court is 31.05.2023.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner is behind bars since 26.03.2019. As per case of the prosecution, name of the petitioner was not mentioned in the FIR. However, in the supplementary statement recorded, petitioner was arrayed as an accused. As per postmortem, there are nine injuries and maximum of the injuries were declared to be incised injuries. As submitted out of total 16 accused as mentioned, challan was presented against 08 of the accused whereas rest of 08 accused had been summoned under Section 319 Cr.P.C. however, this Court has already stayed the summoning of the rest of the accused and the same is pending adjudication. The custody of the petitioner is admittedly of more than 04 years. Needless to say that every accused has a right of speedy trial.

This Court would refrain itself from commenting anything on the merits of the case. However, keeping in view the custody as well as the attending facts and circumstances of the case, this Court is of the

opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

26.05.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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