

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

(209)

CRM-M-37966-2021

Date of Decision: 09.02.2023

Gurdas Singh

--Petitioner

Versus

State of Punjab

--Respondent

**CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.**

Present:- Mr. M.S. Saini, Advocate for the petitioner.

Mr. Sandeep Kumar, D.A.G., Punjab.

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**RAJESH BHARDWAJ.J (Oral)**

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.104 dated 13.11.2020 under sections 302, 307, 303, 324, 325, 452, 427, 506, 148, 149, 120-B I.P.C, registered at Police Station, Jodhan, District Ludhiana.

As per factual matrix, a complaint was lodged by Manjit Singh, wherein it was alleged that they had dispute regarding the passage with their neighbors and on account of the same there normally remained quarrel with their neighbors. On the fateful day his maternal uncle Chamkaur Singh had come to their village for getting treatment. At about 10.30 AM a quarrel took place with the neighbors and the same got flared up. Accused Amandeep Singh @ Sony, Amritpal Singh @ Mana, Gurjant Singh @ Gosa, Himmat Singh etc. armed with their respective weapons trespassed in their house and started beating his maternal uncle. On their raising noise all the accused persons escaped from the spot along with their weapons. They shifted their maternal uncle to Civil Hospital, Pakhowal where the doctors declared him dead. A request was made to take legal action against the

culprits.

On the basis of the complaint, present FIR was lodged and investigation commenced. Statements of the witnesses were recorded. The post mortem of the deceased was conducted and accused persons were arrested by the police. Petitioner was arrested on 19.11.2020. He approached the court of learned Addl. Sessions Judge, Ludhiana for grant of bail, however, after hearing the parties, the same was declined vide order dated 12.8.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been roped in the present case on account of rivalry which was going on between both the sides. He submits that petitioner is suffering from polio and due to his medical condition he always carries a stick for walking. He submits that petitioner was present at the time of occurrence and was carrying a daang is totally a concocted story. He submits that from the reading of the FIR it is clear that petitioner has not been attributed any injury to the deceased or anyone. It is submitted that petitioner has been only shown as a part of an unlawful assembly. It is further submitted that all the male members of the family of the accused persons have been implicated in this case. Counsel submits that petitioner is behind bars for the last more than 2 years and he has no criminal antecedents. It is submitted that as per the post mortem report the cause of death is due to the head injury which has not been attributed to the petitioner and thus he deserves to be enlarged on bail.

On the other hand, learned State counsel on instructions from ASI Sukhjot Singh has submitted that complicity of the petitioner in this

case is very well established. It is submitted that petitioner had duly participated in the occurrence and the same is captured in the CCTV footage. Counsel submits that besides the deceased there are three injured persons in the present case and the case of the prosecution is based on the eye witness account, however, he has not denied the fact that petitioner is suffering from polio. He submits that State has also filed reply in this regard. He submits that in all there are 15 accused persons out of which 4 are on bail. It is also submitted that there are total 31 prosecution witnesses out of which only 2 have been examined by the Trial Court. It is submitted that petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 19.11.2020. As per case of the prosecution, petitioner was armed with a daang. The petitioner is suffering from polio and he walks with the help of a stick is also undisputed. As per the allegations in the FIR petitioner has not been attributed any injury. Out of 31 prosecution witnesses only 2 have been examined so far. There is nothing on record to show that petitioner has any criminal antecedents.

This court would refrain itself from commenting anything on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be

enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)  
JUDGE

09.02.2023  
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| Whether speaking/reasoned: | Yes/No |
| Whether Reportable:        | Yes/No |