

CRM-M-34040-2023

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(223)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34040-2023
Date of Decision: 18.08.2023

PAPPU RAM @ RAM KUMAR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. G.B.S. Dhillon, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, 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.93 dated 27.10.2018 registered under Sections 302, 506, 34 IPC at Police Station Bahav Wala, District Fazilka.

2. The FIR was registered on the statement of Mahinder Kumar son of Gopi Ram wherein it was alleged that on 27.10.2018, Pawan Kumar came to the house of the complainant and informed that Pappu Ram (petitioner) was beating the complainant's son, namely, Ramesh Kumar (deceased) at his house by tying him. When the complainant along with his other son, Rajinder Kumar, reached the house of Pappu Kumar, there Surinder Kumar (granted bail vide order dated 15.01.2020 passed in CRM-M-45162-2019) was standing outside the house and stopped them from entering the house. The complainant's son was given beatings with the sticks by Pappu Ram, his wife

and his father-Krishan Lal. In the meantime, someone called the Police who got released the complainant's son. They brought the victim to Civil Hospital Abohar, where the doctor declared him dead. On these broad allegations, the FIR was registered.

3. The learned counsel for the petitioner contends that though undoubtedly, the petitioner is the main accused, however, he has been in custody since 29.10.2018. Three material prosecution witnesses namely, PW1/complainant Mahinder Singh, PW2-Pawan and PW3-Rajinder already stand examined. An application under Section 319 Cr.P.C. was moved way back in the year 2019 for arraying Het Ram, Hari Ram, Sushil Kumar and Salochna as additional accused to face trial along with the accused already facing trial. The said application had not been decided till date. Keeping in view the period of incarceration of the petitioner, the fact that the three material witnesses already stood examined and that the application under Section 319 Cr.P.C. is still pending adjudication, the petitioner was entitled to the concession of bail, moreso, when three of his co-accused namely, Surinder Kumar, Santosh and Krishan Lal had been granted the similar concession.

4. A status report dated 18.08.2023 by way of an affidavit of Avtar Singh, PPS, Deputy Superintendent of Police (Rural) Abohar, District Fazilka has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner is the main accused and therefore, looking at the serious nature of allegations levelled against the petitioner, he was not entitled to the concession of bail. He, however,

concedes that the petitioner is in custody since 29.10.2018, all the material prosecution witnesses stand examined and the application under Section 319 Cr.P.C. is pending adjudication since the last 04 years which would further delay the conclusion of the trial.

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

6. Admittedly, the petitioner is the main accused. However, it is equally true that he is in custody since 29.10.2018. The three material witnesses stand examined and the question of pressurizing the said witnesses would not arise. An application under Section 319 Cr.P.C. is still pending adjudication and therefore, the trial of the present case is not likely to be concluded anytime soon as 15 more prosecution witnesses still need to be examined. In this view of the matter, the further incarceration of the petitioner is not warranted.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Pappu Ram @ Ram Kumar son of Krishan Lal is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the

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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.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.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

18.08.2023

JITESH

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