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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 05.10.2023

Tarsem Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Bikramjeet Singh Jatana, Advocate for the petitioner.

Mr. Mohit Thakur, AAG Punjab.

Mr. Gursimran Singh Jassan, Advocate for the complainant.

ARUN MONGA, J. (Oral)

Following the denial of bail by the learned trial court, the petitioner is now before this Court seeking his release as an undertrial in a case with FIR No. 0076 dated 30.04.2022, registered under Sections 302, 148, read with Section 149 IPC of the Indian Penal Code at the Sardulgarh Police Station in Mansa.

2. FIR was lodged based on the statement of the complainant, Sukhwant Singh. He stated that on 29.04.2022, he, along with his cousin Balvir Singh and his son Jagjiwan Singh, went to Sardulgarh on their motorcycles in connection with some personal work. When they reached near Maal Sahib Gurudwara at Sardulgarh, one motorcycle on which three Hindu gentlemen and one Sikh gentleman suddenly came in front of his son's motorcycle and encircled him. Accused Harprit Singh @ Beeda gave a knife blow on the left side of the stomach of his son, while accused Sehajdeep Singh gave a kirch blow on the left side of the chest of his son. As a result, his son fell down. Thereafter, Tarsem Singh (petitioner herein) gave a gandasi blow on the left wrist of his son. On raising hue and cry, people gathered there, and all the accused fled away with their respective weapons. Deceased Jagjiwan Singh later succumbed to his injuries. The

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petitioner, Tarsem Singh, was taken into custody on May 06, 2022, and has remained incarcerated since then.

3. Learned counsel for the petitioner contends that perusal of the FIR and the statement of the complainant recorded therein shows inherent contradictions that the complainant himself was not present at the scene of occurrence, and it is only on hearsay that the FIR was recorded, masquerading it to be his version as an eyewitness. He points out that it is rather unpalatable that seeing his son collapse with such grievous injuries, neither he himself nor his real brother, namely, Balbir Singh, who was at the scene of occurrence, took any steps to take the deceased to the hospital. It is rather vaguely stated that since both the father of the deceased-complainant and his (complainant's) elder brother Balbir Singh got very tense on seeing the cross-fights between the young boys, it was left to the people who gathered there to take the son of the complainant to the hospital.

3.1. He further points out that subsequently complainant disclosed the name of the person who took his son to the hospital as Jaspreet Singh, who turns out to be his immediate neighbor. He further points out that it is rather intriguing that at the time of recording his version, when the FIR was registered he would say that people gathered on the spot took him to the hospital, and he would not know the name of his immediate neighbor. That shows that even the other two eyewitnesses, i.e., his brother as well as his neighbor, have been planted subsequently.

3.2. He further submits that as per the medical record, injury No. 1, which proved fatal to the deceased, has been attributed to co-accused Harpreet Singh. According to him, the petitioner has been attributed injury No. 2, i.e., on the wrist of the deceased, and the same has not been declared dangerous to life.

3.3. Furthermore, the petitioner's counsel asserts that there is no substantial evidence against the petitioner. The petitioner's counsel also contends

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that there is no need for further custodial interrogation of the petitioner, as nothing remains to be recovered from him. Moreover, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses. The petitioner is not involved in any other case.

4. Learned State counsel opposes the petitioner's bail application, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He further submits that allegations against the petitioner are serious.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, it transpires that the investigation against the petitioner has been completed, and charges were framed on 27.04.2023. At this stage, the allegations against the petitioner are subject to trial. Of the nineteen prosecution witnesses, none has been examined so far. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since May 06, 2022, for almost 01 year and 05 months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. The petitioner is stated to be a young undergraduate aged 20 years and is at the crossroads of his life. His career prospects are already tarnished due to prolonged incarceration and continuation thereof would forever jeopardize his future. Having a fixed abode and clean antecedents, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

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9. Considering the overall scenario, without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
11. In case, petitioner is found involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 05, 2023
Ajay

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