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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M-41375-2021
Date of Decision: 10.01.2023**

Amit Kumar alias Shera Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Mohd. Salim, Advocate,
for the petitioner.

Ms. Akshita Chauhan, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.120 dated 17.05.2019, under Sections 302, 324, 323, 506, 148, 149 & 120-B IPC, registered at Police Station Civil Lines Patiala, District Patiala.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 24.07.2019, which is almost 3½ years and the investigation of the case was completed and thereafter, charges were framed on 06.04.2021. He further submitted that again more than 7 months have elapsed but not even a single witness has been examined by the prosecution. He also submitted that the petitioner has got clean antecedents

and is not involved in any other case and he has been falsely implicated in the present case. He further submitted that even as per the prosecution story, the petitioner had inflicted Sword blow on the leg and head of the deceased. However, as per Para No.7 of the reply filed by the State in the present case, the cause of death was “Chest injury which is sufficient to cause death in ordinary course of nature” and injury on chest was inflicted by other co-accused, namely, Sonu Mental @ Sandeep, who is already in custody. He further submitted that the similarly situated co-accused, namely, Gurdhir Singh @ Gogi, Ajay Kumar, Bant Ram @ Banta and Manjit Singh have already been granted regular bail by this Court vide Annexures P-5 to P-8. He also submitted that considering the aforesaid facts and circumstances especially the long custody of the petitioner, which is almost 3½ years, he may also be considered for the grant of regular bail.

On the other hand, Ms. Akshita Chauhan, AAG, Punjab has submitted that it is correct that the petitioner is in custody since 24.07.2019, which is almost 3½ years and after the framing of charges on 06.04.2021, no prosecution witness has been examined till date. She further submitted that it is also correct that the petitioner is not involved in any other case and the aforesaid co-accused have already been extended the benefit of regular bail by this Court. She has however submitted that the petitioner is not at parity with the aforesaid co-accused because the petitioner was armed with *Sword* that was not the case qua the other co-accused, who were armed with *Lathis* etc. So far as the medical report regarding the cause of death is concerned, she has not disputed the same that as per the medical report the chest injury was sufficient to cause the death of the deceased.

I have heard the learned counsel for the parties.

It is a case where the the petitioner has faced incarceration for almost 3½ years and he is not involved in any other case and is having clean antecedents. The allegations against the petitioner were pertaining to giving Sword blow on the head and leg of the deceased and as per the reply filed by the State, there were injuries on the chest which is stated to be sufficient to cause death and even as per the FIR, the injuries were caused by the co-accused, namely, Sonu Mental @ Sandeep. The charges were framed in the month of April, 2021 but till date no prosecution witness has been examined.

Therefore, considering the aforesaid facts and circumstances and particularly the long custody of the petitioner i.e. about 3½ years, this Court deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

10.01.2023

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |