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

CRM-M-38264-2022

Date of Decision: 19.04.2023

KARAN SINGH @ BHUNDI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.S. Sekhon, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, 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.03 dated 05.01.2022 (Annexure P-1) registered under Sections 302, 148, 149 IPC, 1860 (Section 212 of IPC, 1860 added later on) at Police Station Arniwala, District Fazilka.

2. The present FIR came to be registered at the instance of Gurpreet Singh son of Dogar Singh who stated that they were three brothers. The eldest was Rashpal Singh who had been adopted by his uncle Gurbachan Singh. He (complainant) and his elder brother Sarabjit Singh @ Sabhi did the work of Halwais. On 04.01.2022 he and his brother Sarabjit Singh @ Sabhi had gone to Jalalabad to fix the the marriage of Sunita Rani daughter of their aunt (Bhua) Raj Rani wife of Amar Singh. While coming back on a motorcycle which was being driven by Sonu Singh son of Amar Singh, his (complainant's) brother Sarabjit Singh @ Sabhi was sitting in the middle

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while he (complainant) was sitting at the back. One other motorcycle was coming behind them which was being driven by Buta Singh son of Amar Singh and Raj Rani wife of Amar Singh who was a pillion rider. At about 05.30 PM, when they (complainant party) reached in the area of Village Ghattian Wali Jattan near the Gurdwara, their motorcycle slowed down. Then Jaskaran Singh @ Baghi, Satnam Singh @ Satta, Sukhpal Singh @ Palu and Karan Singh @ Bhundi (petitioner) along with 4-5 unknown persons were present at the spot. On seeing the slow speed of the motorcycle, Jaskaran Singh @ Baghi raised a Lalkara. On hearing the Lalkara, Sukhpal Singh @ Palu held his (complainant's) brother Sarabjit Singh @ Sabhi from his neck and pulled him down from the motorcycle. Satnam Singh @ Satta gave a brick blow to his brother on his left cheek. Karan Singh @ Bhundi gave a brick blow to his brother on his left eye. Jaskaran Singh @ Baghi gave a Kapa blow on the backside of his (deceased Sarabjit Singh @ Sabhi) head. When he (complainant) along with his aunt and her son tried to rescue his brother, the unknown persons caught them (complainant party) and assaulted them. On a hue and cry being raised, the accused fled away from the spot. He (complainant) and his companions took Sarabjit Singh @ Baghi to Kamboj Hospital for first-aid. His (complainant's) brother disclosed that about two months ago, he had a quarrel with Jaskaran Singh @ Baghi and Sukhpal Singh @ Palu etc. and due to that grudge injuries had been caused to him (deceased Sarabjit Singh @ Sabhi). At the same time calls were made from the accused to the mobile number of his (complainant's) brother Sarabjit

Singh @ Sabhi and the accused stated that Sarabjit Singh @ Sabhi had been punished for the earlier quarrel. Thereafter, his (complainant's) brother started getting unconscious. He was admitted at Civil Hospital, Fazilka, where he died.

3. The learned counsel for the petitioner contends that the petitioner had been exonerated in an inquiry conducted by the Deputy Superintendent of Police, Fazilka. It was found that the petitioner was not present at the time of the incident. As per the prosecution case, the petitioner is stated to have given a brick blow on the deceased striking his left eye. However, a perusal of the postmortem report would reveal no such injury on the left eye of the deceased. On the other hand, there was an abrasion on the left cheek of the deceased which has been specifically attributed to Satnam Singh @ Satta. So far as the fatal injury is concerned, the same has been attributed to Jaskaran Singh @ Baghi. He therefore contends that since the injury attributed to the petitioner has not been found in the postmortem report of the deceased, the petitioner is in custody since 05.01.2022, is a first-time offender and none of the prosecution witnesses had been examined so far, the petitioner was entitled to the grant of bail, moreso, when in the two other cases registered against him, he has been granted the similar relief.

4. On the other hand, the learned State counsel contends that the petitioner was a part of an unlawful assembly. Merely because the injury attributed to the petitioner has not been found on the person of the deceased is not reason enough to grant him the concession of bail. He however

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concedes that the petitioner is a first-time offender, in custody since 05.01.2022 and none of the 19 prosecution witnesses had been examined so far.

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

6. The veracity of the prosecution case against the petitioner shall be established during the course of Trial. At this stage, the petitioner has undergone more than one year of actual custody. None of the 19 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. There are two other cases registered against him bearing FIR No.182 dated 29.12.2020 under Section 324, 323, 34 IPC at Arniwala and FIR No.148 dated 10.10.2020 under Section 325, 324, 323, 506, 34 IPC at Police Station Arniwala, in both of which the petitioner has been granted the concession of bail. Therefore, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Karan Singh @ Bhundi son of Chinder Pal Singh is ordered to be released on bail subject to 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 cases mentioned in this order.

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9. 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.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.04.2023

JITESH

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