

2023:PHHC:102696

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

220

CRM M-37740 of 2023

Date of Decision: 08.08.2023

Akhilesh Partap Singh @
Shubham @ Murda

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Abhijeet Partap, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has moved the present petition under Section 439 Cr.P.C. with a prayer to grant the concession of regular bail to him in case FIR No. 72 dated 25.05.2022 under Sections 302/34 IPC and later on added Section 201 IPC registered at Police Station City GRP Ludhiana (Annexure P-1).

2. As per the case of the prosecution, the FIR in the present case was registered by Satpal Singh son of Mota Singh resident of Rajjewal, Police Station Ladhawal, District Ludhiana. As per him, his son Harvinder Singh @ Happy was working on daily basis in Forest Department, Ludhiana and on 17.05.2022, he returned home from his duty at about 05.30 p.m. in the evening and on the same day, at about 07.30 p.m., went back by saying that he would returned home after 03 hours of night duty, but did not return home on that night. At

about 08.30 a.m. on 18.05.2022 Ravinder Singh son of the complainant informed him that the dead body of Harvinder Singh @ Happy was lying near the railway track between Jassian bridge at Railway Station, Ladowal, Ludhiana. On getting this information, the complainant alongwith his other family members reached at the accident site and saw the dead body of his son Harvinder Singh @ Happy, which had suffered many injuries including a deep injury on the back of the head. He shifted the dead body of Harvinder Singh @ Happy with the help of his family and on next day, i.e., 19.05.2022, the postmortem was conducted at Civil Hospital Ludhiana. However, due to the shock of death of his son, he did not make a statement against any one. However, later on, he came to know from nearby people that Sohan Kumar @ Baba, Akhilesh Partap Singh @ Shubham and Deepak @ Kaua, who used to commit snatching incidents near the railway line, had killed his son Harvinder Singh @ Happy while making loot from him. With these broad allegations, the FIR in the present case was got registered by the complainant on 25.05.2022.

3. Learned counsel for the petitioner submits that Harvinder Singh @ Happy was drunkard and he had died due to railway accident on the night intervening 17/18.05.2022 and his dead body was found on the next day in the morning at the railway track. Learned counsel further submits that police was called at the spot and

the statements of the complainant and other family members were recorded and it was found to be a case of death due to railway accident and the police had also initiated proceedings under Section 174 Cr.P.C. after completing the formalities. Even as per the post mortem report (Annexure P-2), the police had provided the information to the doctor that the deceased had died due to the railway accident. Even, as per the doctor, the cause of death in the present case was injuries described, which were ante-mortem in nature and sufficient to cause death in ordinary course of nature. Still further, keeping in view the blackish grease marks on the clothes and body injuries, depth of injuries and site of injuries, these could be the result of railway injuries. Learned counsel further contends that after 08 days of alleged accidental death of Harvinder Singh @ Happy, the complainant got his statement recorded on 25.05.2022 on the basis of suspicion and stated that the petitioner alongwith others, had killed his son and the FIR was wrongly registered against the petitioner and others. Learned counsel further contends that it has been alleged against the petitioner that he had involved in snatching incidents near the place of accident, whereas, no FIR was ever registered against the petitioner in this regard and the petitioner was never involved in any such criminal activity. In fact, the petitioner was a labourer, who used to work in a Hosiery factory and is behind bars since 26.05.2022.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that the petitioner alongwith his other co-accused had committed the murder of Harvinder Singh @ Happy and did not deserve the concession of bail. Learned State counsel further submitted that the petitioner alongwith other co-accused were “last seen” with the deceased Harvinder Singh @ Happy and did not deserve the concession of bail.

5. I have heard learned counsel for the parties and perused the record.

6. It is not in dispute that Harvinder Singh @ Happy had suffered injuries on the night intervening 17/18.05.2022 and his dead body was found at the railway track on 18.05.2022. Even as per the PMR report (Annexure P-2), the injuries could be sustained in a railway accident and the case is based on circumstantial evidence. Apart from that, after the discovery of the dead body of the deceased, 174 Cr.P.C. proceedings were completed and the FIR in the present case was registered after 08 days, i.e. 25.05.2022. Still further, the prosecution could not place on record any material to show that the petitioner is in a position to influence the witnesses of the prosecution or his likely to flee from the process of justice.

7. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered

to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

08.08.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No