

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38331-2023 (O&M)

Date of decision: 31.08.2023

Hans Singh @ Hansa

..Petitioner

Versus

State of Punjab

.Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. K.B.S.Mann, Advocate for the petitioner

Mr. Ajit Singh Natt, AAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. The petitioner was granted the concession of bail vide order dated 20.12.2019 passed in CRM-M-53107-2019, in criminal case arising from FIR no. 124 dated 28.06.2018 registered under Sections 302/367/323/34 IPC, at Police Station Lambi, District Sri Muktsar Sahib, with the following order:-

“This is second application for grant of regular bail to the petitioner in FIR No.124, dated 28.06.2018, registered under Sections 302/367/323/34 IPC, at Police Station Lambi, District Sri Muktsar Sahib.

First petition for grant of bail was dismissed as withdrawn on 03.04.2019.

Case of the prosecution as stated in the FIR, translation whereof, has been produced, reads as under:-

“It is stated that I am resident of the abovesaid address and have been working as labourer. On 2.5.2018, night Hans Singh son of Nikkar Singh caste Majbi Sikh R/o Bhullar Wala took me to Canal on his motor cycle where he served me

liquor where from I spoke to my son Vikramjit Singh on telephone. Hans Singh gave me rod blow on my neck, I fell unconscious and then he threw me in an unconscious position near Bus Adda Dabwali, Punjab and there also Hans Singh after calling other persons caused me many injuries. Thereafter, Hans Singh in order to save himself got me admitted in Government Hospital, Dabwali where after giving me treatment Doctor referred me, then on getting information by my son Vikramjeet, my father Naib Singh reached in Dabwali Hospital and they got me admitted here on 03.05.2018. Whereas Hans Singh misguided my family members that he has been met with an accident. Now I have gained conscious and I have got recorded my statement in the presence of my son Vikramjeet, heard, it is correct. Hans Singh have caused me injuries. Legal action be taken against him. LTI Jagseer Singh, Sd/- Daljit Singh, ASI, I, Incharge, PP Killianwali, PS Lambi, dated 27.08.2016.”

Learned counsel for the petitioner contends that the alleged occurrence is of 02.05.2018, whereas for the first time report was filed with the police on 05.06.2018 i.e. after a period of more than a month. He further submits that the FIR was registered on 28.06.2018, however, since Jagseer Singh died on 09.07.2018, hence, offence under Section 302 IPC was added. Learned counsel for the petitioner contends that no motive or enmity has been alleged in the FIR. He further submits that the police during investigation also did not find any motive for commission of offence. Learned counsel further draws attention of the Court to the opinion of the doctor, which reads as under:-

“Pneumonia with long standing ailment”

He further draws attention of the court to the subsequent opinion of the doctor dated 15.10.2018 which reads as under:-

“the cause of death is Pneumonia, which caused by long standing debilitation and in bed ridden patient”

Petitioner is in custody since 20.07.2018. On conclusion of the investigation, final report as required under Section 173 Cr.P.C has been submitted to the Court and prosecution has recorded depositions of 2 witnesses out of total 25 proposed to be examined.

As per information supplied by learned counsel for the State, on instructions from ASI Pritpal Singh, petitioner does not have any criminal antecedents.

Without commenting on the merits of the case and keeping in view the fact that the petitioner is in custody since 20.07.2018 and the trial of the case is likely to take long time, the petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the trial Court/Duty Magistrate.

Accordingly the petition is allowed with the aforesaid directions.”

2. Thereafter, the petitioner was absent on 01.12.2022. The court cancelled the bail and issued the non-bailable warrants due to petitioner's absence. The police failed to arrest the petitioner. He was declared a proclaimed offender on 24.04.2023 whereas he surrendered in the court on 05.05.2023. The petitioner continues to remain in custody since 05.05.2023.

3. On the other hand, the learned State counsel has submitted that the petitioner does not have a criminal past, however, he previously has jumped bail.
4. Learned counsel representing the petitioner contends that the petitioner is ready to give an undertaking before the trial court to the effect that he will have no objection if the evidence is recorded in the presence of his counsel even if he is absent on any date of hearing.
5. Keeping in view the aforesaid facts, the petitioner is directed to be released on bail, subject to his furnishing bail bonds to the satisfaction of the trial court/Duty Magistrate/Chief Judicial Magistrate and also subject to an undertaking that he will have no objection if the evidence of the prosecution witnesses are recorded in the presence of his counsel even though he is absent.
6. The petition stands allowed.
7. All the pending miscellaneous applications, if any, are also disposed of.

31.08.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE