

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

276

CRM-M-40991-2022
Date of Decision: 29.08.2023

TEJINDER SINGH

... Petitioner

VERSUS

STATE OF PUNJAB

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Paras Talwar, Advocate
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

Mr. Vipin Mahajan, Advocate
for the complainant.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking regular bail in case FIR No.49 dated 01.07.2021 under Section 302 read with Section 34 of the Indian Penal Code, 1860 registered at Police Station Tibber, District Gurdaspur (Annexure P-1).

Briefly summarized, the facts of the present case are that the case was registered on the statement of one Shamsher Singh son of Pritam Singh resident of Ghot Pokhar, District Gurdaspur. It was alleged that the houses of Lakhwinder Singh, Tejinder Singh @ Laddi (the petitioner herein) is situated in front of the house of the complainant. Lakhwinder Singh is employed in Police Department and is posted in Gurdaspur. On 30.06.2021 at 07.30 P.M. Lakhwinder Singh came to his house in his car and when he was about to turn the car towards his house, Shamsher Singh's brother Mastan Singh was

throwing the debris in his plot. Lakhwinder Singh said filthy abuses to his brother, as a result whereof, an altercation took place. On hearing the loud voices, the petitioner herein opened the gate of his house and came out and gave a *Lalkara* to teach a lesson to Mastan Singh deceased for disturbing them on daily basis. On the said *Lalkara*, Lakhwinder is stated to have caught hold of Mastan Singh from his neck and gave a fist blow on his chest and also strangled Mastan Singh by putting his arms around his neck. Tejinder Singh is also stated to have caught hold of deceased Mastan Singh from his hair and given fist and kick blows in the abdomen and back. The occurrence in question is stated to be witnessed by the complainant as well as his sister-in-law Kulwinder Kaur wife of Mastan Singh as they were on the other side of the aforesaid plot. They raised an alarm and ran towards Mastan Singh, who had fallen down unconscious. He was brought to the Civil Hospital after arranging vehicle, where he was declared as “brought dead.”

Learned counsel for the petitioner contends that the petitioner is only attributed a *Lalkara* besides giving fist and kick blows in the abdomen and back of deceased Mastan Singh. He contends that the doctor has already been examined by the prosecution during the course of the trial and that there is no other injury on the body of the deceased except for the neck and the cause of death is asphyxia. It is contended that the petitioner has been falsely implicated and that the main role is attributed to Lakhwinder Singh, who is the main accused and is already in custody. It is further averred that there are as many as 26 witnesses cited by the prosecution and only five witnesses have been examined so far, including the complainant, eye witness and the Doctor. It is further averred that there is no further necessity of incarcerating the petitioner.

Counsel for the respondent-State assisted by the counsel for the complainant contends that during the course of the trial, five witnesses have been examined by the prosecution whereas four witnesses have been given up being unnecessary. Hence, only 17 witnesses remain to be examined. It is further argued that the petitioner is a habitual offender and there are as many as five other criminal cases that have been registered against him. It is further argued that the petitioner is in the habit of committing offences and then threatening the complainant(s) to compromise the matter with him and that in the event of the concession of bail being granted to the petitioner, he is likely to indulge in threatening the petitioner as well as other witnesses. It contended that the house of the petitioner is adjacent to that of the complainant and that the possibility of looming danger on the family of the complainant is writ large.

Controverting the above apprehension, counsel for the petitioner contends that the petitioner undertakes to reside outside the village so as to ward off any apprehension of alleged threat and also undertakes not to take any steps to intimidate the witnesses qua their depositions. It is contended that the crucial witnesses have already been examined and as such the apprehension of the respondent-complainant is misplaced. It is also contended that the petitioner already stands acquitted in the other matters where either the proceedings have been dropped or cancellation report has been filed; and there is only one criminal case under the NDPS Act, 1985 which has been registered against him during his custody. He reiterates that the petitioner has already undergone the actual custody of 01 year, 09 months 18 days and that further incarceration is not likely to advance any cause of justice.

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

After taking into consideration the period of custody of the petitioner, the stage of the trial, the fact that material witnesses have already been examined by the prosecution including the medical evidence, which shows the existence of injury only on the neck, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is ordered to be admitted to regular bail subject to his furnishing adequate bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petitioner shall, however, remain bound by his undertaking given today in Court regarding staying away at a place other than the village namely Ghot Pokhar, District Gurdaspur till the final decision of the said trial. Apart therefrom, the petitioner shall also not indulge or make any attempt to indulge in threatening/intimidating or inducing the prosecution witnesses in any manner, whatsoever, either himself or through any of his associates/agents.

Nothing discussed hereinabove, shall be construed as an expression of opinion on the merits of the case.

AUGUST 29, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

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