

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

CRA-S-2758-2023(O&M)

Date of Decision:-07.11.2023

Gurlal.

.....Appellant.

Vs.

State of Haryana & Anr.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Himani Anand, Advocate for the Appellant.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this appeal is for the grant of regular bail in case FIR No.187 dated 26.06.2022 under Sections 302, 201, 34 IPC and Sections 3(2)(v) of SC/ST Act (added later on) registered at Police Station City Pehowa, District Kurukshetra.

2. The present FIR came to be registered at the instance of Dharambir Singh son of Sh. Tirlok Singh who stated that on 20.06.2022 he along with his sister Paramjit Kaur and uncle Rajinder Singh were sitting at their home. At about 8.30 pm in the evening Gurmit Singh son of Gian Singh came to their house on his motor cycle and took away his father Tirlok Singh aged about 75 years. His father did not come back during the night and on the next day at about 6.00 am in the morning his father was found lying dead on the road. He (complainant) along with his family members went to the spot and found that his father Tirlok Singh had suffered multiple injuries on different parts of his body. On account of shock he could not disclose the exact nature of injuries or the names of the accused.

However, on his own investigation he had come to know that Gurmeet Singh had taken his father to the house of Joginder Singh Waraich (since granted bail vide order dated 20.07.2023 in CRA-S-2714-2022) and all three had consumed alcohol in the house of the appellant. Arguments took place between his father on the one hand and all the accused on the other pursuant to which Joginder Singh Waraich had given injuries to his father and in order to destroy the evidence, the body of his father had been thrown near Shiv Mandir. Strict action was sought against the accused.

3. The Counsel for the appellant contends that the occurrence allegedly took place on the night intervening 20/21.06.2022 and the instant FIR came to be registered only on 26.06.2022. There was no evidence that the deceased had been murdered at the house of the Joginder Singh Waraich. There was no evidence to the effect that the deceased had consumed alcohol as has been mentioned in the FIR. The co-accused Joginder Singh had been granted bail by this Court. As he was a first time offender and in custody since 01.07.2022, he was entitled to the concession of bail, more so, when only 05 of the 34 prosecution witnesses had been examined so far.

4. The Counsel for the State on the other hand while referring to the reply filed today in court by way of affidavit of Mr. Rajat Gulia, HPS, DSP, HQ, Kurukshetra contends that as per the confessional statement of the accused the occurrence had taken place at the house of Joginder Singh Waraich and the appellant is the son of Joginder Singh Waraich. He however, states that other than the hearsay evidence of the complainant and the confessional statements of the accused, there is no other evidence available against the appellants. He however concedes that the appellant is a first time offender, in custody since 30.06.2022 and the co-accused has been granted the concession of bail.

5. I have heard learned Counsel for the parties.
6. Whether the evidence available on record is sufficient to affix liability upon the appellant and his co-accused shall be examined during the course of the Trial. Admittedly, the appellant is in custody since 01.07.2022 and only 05 out of 34 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. The co-accused Joginder Singh Waraich father of the appellant has already been granted bail. In view of the enumerated circumstances, the further incarceration of the appellant is not required.
7. Thus, without commenting upon the merits of the case, the present appeal is allowed and the appellant-**Gurlal** son of Sh. Joginder Singh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. The appellant shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case other than the present case.
9. In addition, the appellant (or someone 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

November 07, 2023
Vinay

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