

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

CRM-M-56253-2022

Date of decision : 28.03.2023

Jehrudeen Ansari

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. F.S. Virk, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present second petition is for grant of regular bail to the petitioner in cross case in FIR No.42 dated 28.03.2021, under Sections 323, 324, 294, 148, 149 of IPC (Sections 302 and 325 of IPC added later on), registered at Police Station Naya Gaon, District SAS Nagar, Mohali.

As per the facts of the case, FIR was registered on the statement of Jehrudeen Ansari wherein the allegations pertaining to the occurrence on 28.03.2021 were alleged. The complainant had alleged regarding the beatings given by the accused to them for which this FIR was registered for the offence under Sections 323, 324, 294, 148 and 149 IPC. However, after investigation, offence under Section 307 IPC was added later on to the same. To the same occurrence, cross-version was registered by way of present DDR No.28 which was registered on the statement of Sandhya daughter of Uma Shankar. As per this DDR, the allegations were regarding causing injury to their side wherein Salman

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Ansari gave a bat blow on the head of her mother namely, Raj Kumari and when her father and brother tried to save her then Subrati Ansari hit her father and brother on their head and arms. Jehrudeen Ansari and his wife Jamila Khatton and grandson Mehtab gave kick blows in the stomach and chest of her mother and they fell down after having been given a bat blow on head by Salman Ansari. It was alleged that the dispute was on account of transaction of money between the parties. Her mother was shifted to PGI, Chandigarh due to the serious injuries suffered by her where she succumbed to the injuries and thus, offence under Section 302 IPC was made out. Petitioner was arrested on 05.04.2021. He approached the Court of learned Additional Sessions Judge, SAS Nagar, Mohali praying for grant of regular bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge declined the same vide order dated 21.09.2021. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner vehemently contends that petitioner in this case has been falsely implicated in this case. He submits that the petitioner is about 65 years of age and is behind bars from last more than 02 years. He submits that it is a case of version and cross-version. He submits that it was the complainant side who was the aggressor as they were the one who first attacked the petitioner side. He submits that the false implication of the petitioner is evident from the fact that the only allegation against the petitioner is to the fact that he gave a kick blow to the deceased when she was lying. He submits that only to show the presence of the petitioner, false allegations have been levelled

against him. He submits that in the present case, there are 05 accused and it is the petitioner and one more co-accused who have been arrested and both are behind bars till date. He further submits that the investigation is complete and charges are also framed and thus, in view of the facts and circumstances of the case, petitioner deserves to be granted bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that admittedly, it is a case of version and cross-version. Thus, the occurrence is also duly established. He submits that the FIR was for the offence under Section 307 IPC but it is the petitioner side who have committed murder of Raj Kumari. He submits that the presence of the petitioner is also evident from the fact that he is part of the unlawful assembly and has duly participated for committing murder of the deceased Raj Kumari. He submits that in all there are 05 accused, out of which, only 02 accused could be arrested and rest of the 03 accused are the close relatives of the petitioner itself who are yet to be arrested. He has submitted that challan is presented and charges are only framed whereas, out of 23 prosecution witnesses, none has been examined so far.

I have heard counsel for the parties and perused the record. Evidently, the case is of version and cross-version. The FIR in this case is for the offence under Section 307 of IPC whereas, the petitioner side is facing prosecution for the offence under Section 302 IPC. As per the prosecution, petitioner has given a kick blow to the deceased but postmortem produced before this Court would show that the cause of death of the deceased is the head injury which has been allegedly caused by bat blow by co-accused Salman Ansari. Petitioner who was unarmed is

behind bars from last more than 02 years. As submitted before this Court, investigation is complete and charges are also framed. Which party is the aggressive is totally a subject matter of the trial. There is nothing on record to show that the petitioner has any criminal antecedents.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

28.03.2023
m. sharma

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