

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

CRM-M-58577-2022

Date of Decision:-04.10.2023

Gobinda.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Anil Kumar Garg, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this third petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.127 dated 29.07.2020 under Sections 302, 149 IPC registered at Police Station Koom Kalan, District Police Commissionerate, Ludhiana.

2. The brief facts of the case are that the FIR came to be registered at the instance of Bahadur Singh who stated that on 29.07.2020 he along with his brother Dara Singh and nephew Pawandeep Singh had gone to village Ballewal to attend the Bhog ceremony of their uncle. Gobinda (petitioner) had also come there along with 2/3 other companions. At about 1.30 pm while they were all sitting on the rooftop then Gobinda and Sagar started argument with his brother Dara Singh (deceased). On being stopped Gobinda and Sagar along with Gurmail Singh @ Geli (since granted bail vide order dated 23.02.2022 in CRM-M-1121-2022) and Baljit Singh @ Bhulekha (since granted bail vide order dated 27.10.2021 in CRM-M-6718-

2021) son of Darshan Singh started beating his brother and threw him on the floor. Then Gobinda caught hold of the arms of his brother and Sagar caught hold of the neck of his brother and strangled him. When he tried to rescue his brother then 2/3 persons accompanying the accused started beating him with sticks due to which he also received injuries on his body. Due to the beatings given by the accused persons his brother Dara Singh became unconscious and the accused fled away from the spot. The deceased was taken to the hospital where he was brought dead on account of strangulation. The motive for the occurrence was that few months prior the deceased had a fight with the accused while gambling. Appropriate action was sought.

3. The counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. No specific role and the injury has been attributed to the petitioner. Taking the allegations to be correct it is a sudden occurrence on the spur of the moment and the petitioner is stated to have only caught hold of the arms of the deceased whereas his co-accused Sagar is stated to have strangled the deceased. As the petitioner was in custody since 03.08.2020 and only 03 out of the 24 prosecution witnesses have been examined so far (04 have been given up), the petitioner was entitled to the concession of bail, more so when two of his co-accused have already been granted the similar concession.

4. The Counsel for the State on the other hand contends that the petitioner along with his co-accused have committed the murder of the deceased and a specific role has been attributed to the petitioner of having caught hold of the deceased. Therefore, he was not entitled to the concession of bail. He however, concedes that the petitioner is a first time offender, in custody since 03.08.2020, 02 of the co-accused have been

granted the concession of bail, as also the fact that only 03 out of 20 prosecution witnesses have been examined so far.

5. I have heard the learned counsel for the parties.
6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first time offender, in custody since 03.08.2020 and only 03 out of 20 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation his further incarceration is not required.
7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Gobinda** son of Sh. Mahant Singh is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.
9. In addition, the petitioner (or anyone 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

October 04, 2023
Vinay

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