

CRM-M-55653-2023

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

CRM-M-55653-2023
Date of decision : 14.11.2023

SAURABH JAISWAL ALIAS PIYUSH ALIAS BABUPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. B.S. Jatana, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab with
ASI Birsh Bhan.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.0117 dated 20.08.2021 registered for the offences punishable under Sections 302, 34 of IPC, 1860 and Section 201 of IPC added later on, at Police Station Bareta, District Mansa.

2. As per the contents of the FIR it has been alleged as under :

“xxxStated that I am resident of above mentioned address of Utrakhand and at the present time residing in a rental house at Kaner Mohalla, near Anand Bakery, Sherawala Gate, Patiala. I do not know the full name of landlord but people used to say him Wohra Sahib. I belongs to Brahman Caste and at the present times doing private job at the Flour Mill of Gupta Sahib situated at Grain Market, Near Nabha Gate, Patiala. We are five brothers and sisters. Sisters are Sonam, Asha, Durgi and name of brother is Shubham Dangwal @ Bunty. Approximately, 20/22 years ago

my mother- father came to Patiala and started residing there. My sister Durgi and brother Bunty born at Patiala. About 1 year ago my father Vijay Dagval has died. We both the brothers are married. Age of my brother Shubham @ Bunty is 21 years. My above mentioned brother Shubham and Tejpal, Chiku, Mani Driver, Gandhi all the five persons had a fight with Shami Kumar son of Dalvir Singh resident of Ekta Nagar, Patiala in the month of May of this year. FIR number 218 under section 307 of IPC was registered at Police Station Kotwali Patiala against my brother and others. In this case my brother was not arrested and was absconding due to fear of arrest but above mentioned Shami Kumar etc. were finding opportunity to take revenge of earlier fight from my brother and Shami Kumar above many times spoken to me to take revenge by killing my brother. I have told this thing to my brother Shubham @ Bunty also. Due to this reason my brother used to stay away from Patiala. Yesterday on 19.08.2021 I was at my work then at about 06:36 PM I have received a call on facebook massager operating on my mobile no.98884-81897 from the ID in the name of Aman Mehra but the call disconnected, no conversation taken place. Then immediately I have called back, Shami Kumar son of Dalvir Singh resident of Ekta Nagar, Patiala was talking from the ID of Aman Mehra. Then I have asked the reason to him that why have you called me then he said that your brother met me and I have taken my revenge from him by inflicting knife, only this information was to be given. I have asked him that where is my brother Shubham Bunty then he told that he is laying there, may be died till now. Then I have tried to contact my brother Bunty but could not contact. Thereafter, at about 08 PM I have received a phone from mobile no.74047-25907, from the other side a person in the name of Deepak was speaking, he told me that someone has inflicted some sharp edged substance in the thigh of your brother Bunty at Bareta City and heavy blood is oozing from his injury. I was taking him to Patiala on his asking but due to his worse condition I took him to Civil Hosptial, Patran, you

may come. On which I alongwith Manminderpal Singh son of Ranjit Singh resident of Sheranwala Gate, Bagichi Hetram Patiala reached at Civil Hospital, Patiala but till that time my brother had died and no one met us there at that time. I have firm belief that Shami Kumar above and Piyush resident of Sanjay Colony, Patiala have attacked upon my brother Shubham Kumar @ Bunty with sharp edged weapon with the motive to take revenge and murdered him. There may be some other persons alongwith them. Statement got recorded, heard, which is correct. Legal action be taken against them. Sd/-Shivam Dangwal above, Statement endorsed, Manminderpal Singh son of Ranjit Singh, resident of Sherawala Gate, Bagichi Hetram Patiala, Sd/- Maninderpal Singh above, attested Sd/- Inspector Jaskaran Singh, SHO Police Station Bareta. Police proceedings:- Yesterday night information received from police station Patran that dead body of Shubham son of Vijay resident of Sherawala Gate Patiala is laying at Civil Hospital, Samana. Occurrence is related to police station Bareta. On which SI Sewak Singh 152/ Mansa alongwith HC Satguru Singh 714/ Mansa, Constable Jaswinder Singh 681/ Mansa have been sent to take the dead body of deceased Shubham and directions made to bring the dead body at Civil Hospital, Budhlada after obtaining it. I Inspector made a contact with his brother Shivam Dangwal son of Vijay Dangwal resident of Patiala and asked him to reach at Civil Hospital, Budhlada. I Inspector alongwith Inspector Bhagwan Dass, SI Jaswinder Singh 244, HC Sukhjinder Singh 865, Constable Raspinder Singh 1520 on official vehicle Rapid bearing no.PB-31P-3521 being driven by SI Jaswinder Singh reached at Civil Hospital Budhlada where SI Sewak Singh alongwith his police party met and made clear that dead body of Shubham after receiving from Civil Hospital, Samana has been deposited in dead house Budhlada. Shivam Dangwal son of Vijay Dangwal son of Roshan Lal, Resident of Khasheti, Post Office Megha Dhar, Police Station Ghanshali, District Tihri, Gandwal, (UtraKhand), now Kaner Mohalla, Near Anand

Bakery, Sherawala Gate, Patiala alongwith Manminderpal Singh son of Ranjit Singh resident of Sherawala Gate, Bagichi Hetram Patiala came here and then Shivam Dangwal above got recorded his above mentioned statement with me. Whatever he spoke, the same has been recorded word to word in the presence of Manminderpal Singh and again read over to him, who after hearing his statement and admitting it as correct put his signatures in English below the statement and Manminderpal Singh put his signatures in Punjabi being witness, which was attested by I Inspector. From the above said statement offence under section 302, 34 of IPC is made out. After writing the proceedings below the statement, the same is being sent through C Ralpinder Singh 1520 to police station for registration of case under the above mentioned offences against Shami Kumar, Piyush and unknown. If during the investigation negligence or any other role found against Deepak above then after verification the action be taken against him. FIR number be intimated after registration of case.xx”

3. Counsel for the petitioner submits that apart from bald statement made by the complainant that too w.r.t. his suspicion qua the present petitioner having accompanied the main accused Shami there is no overt act attributed to him. Challan already stands presented and thus there can't be any apprehension that the petitioner shall tamper with the evidence.

4. State Counsel very fairly submits that as per the evidence collected by the investigating agency the only role attributed to the petitioner is of having accompanied Shami to the place where Shami inflicted injury upon the body of the deceased. He further submits that the

petitioner is a history-sheeter having three more FIRs against him and thus he does not deserve concession of regular bail.

5. Faced with the situation counsel for the petitioner relies upon **'Prabhakar Tewari vs. State of UP and another', 2020 (1) RCR (Criminal) 831** to submit that the involvement of the petitioner in several more cases cannot be a ground to deny bail. Further reliance has been placed upon **'Maulana Mohd. Amir Rashadi vs. State of UP (SC)', (2012) 2 SCC 382.**

6. I have heard counsel for the parties and have gone through records of the case.

7. In view of above, without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

November 14, 2023
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No