

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-297 of 2024(O&M)
Date of Decision: 10.04.2024

Vivek

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Aditya Sanghi, Advocate
For the petitioner.

Mr. Vinay Phogat, DAG Haryana.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner seeking grant of regular bail in criminal case having FIR No. 111 dated 10.02.2023, registered under Section 302 IPC at Police Station Surajkund, District Faridabad.

2. As per the allegations appearing in the FIR on 09.02.2023 Brij Raj Singh husband of complainant was driving his auto No. DL1RW-4980 and at about 7:00 p.m. his auto suddenly touched vehicle No. DL-3CCW-9068 which was driven by petitioner Vivek. On this, Vivek came out of his car and started beating Brij Raj Singh and gave him merciless beatings and Vivek left the spot, while Brij Raj Singh was lying unconscious in front of shop of Ombir Cycle Works. The complainant received information with regard to said incident and reached there and then injured Brij Raj Singh was

taken to Supreme Hospital but on the way he died. During investigation the petitioner was arrested.

3. The counsel for the petitioner submits that the petitioner is falsely named in the FIR and is in custody for the last more than 01 year and is having no criminal history. It is further submitted that during trial eye-witness Ombir did not support the case of prosecution and as per the report received by the trial Court complainant Sunita wife of Brij Raj Singh is not alive. The certified copies of the aforesaid deposition of Ombir and report regarding death of Sunita which are produced by counsel for the petitioner are taken on record. The counsel for the petitioner further submits that it being so, no purpose will be served by keeping the petitioner in custody for any longer period.

4. The present petition is resisted by the State counsel who has not disputed the fact that during trial material witness Ombir Singh has resiled from his previous statement and further after going through the copy of order dated 02.04.2024 passed by the trial Court, has not disputed the fact with regard to death of complainant Sunita. The State counsel, however, submits that entire occurrence was captured in CCTV which was installed at the spot and the said footage of CCTV camera clearly shows that petitioner intentionally gave beatings to Brij Raj Singh which resulted in his death.

5. I have considered the submissions made by counsel for the parties.

6. The authenticity of any such CCTV footage will be tested during trial subject to certificate issued under Section 65-B of Evidence Act.

As per custody certificate petitioner is in custody for about 01 year and 02

months and is having no criminal history. It is also apparent that till date prosecution is able to examine only one witness on its behalf, thus, making it clear that it will take time for the trial to terminate.

7. In view of the fact that the star witness namely PW Ombir who witnessed the occurrence in question, while appearing in the witness box has not supported the case of prosecution and further complainant has died even before recording of her statement, no purpose will be served by detaining the petitioner in custody for any longer period.

8. In light of above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing of bail bonds and heavy surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10.04.2024
Jiten

(KARAMJIT SINGH)
JUDGE

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