

CRM-M-2228-2024
Date of decision: 22.02.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Partap Singh, Advocate,
Mr. Gourav Jangra, Advocate and
Mr. Vikas, Advocate for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

This is the first petition filed under Section 439 of Code of Criminal Procedure for grant of regular bail to the petitioner, who has been summoned under Section 319 Cr.P.C. to face trial, in case bearing FIR No.412 dated 05.12.2021 registered under Sections 302/34 IPC (later Section 34 of IPC was deleted) at Police Station Butana, District Karnal, Haryana.

2. The present FIR was lodged on the allegations that on 27.11.2021, Bula Ram son of Tilak Raj proceeded on his auto-rickshaw towards Bus Stand, Nilokheri. Pankaj son of Pritam Dass had also gone there in his auto-rickshaw. There is a shop in the name of Jasbir Auto Centre. Pankaj is nephew of Buta Ram. It is alleged that the owner of Jasbir Auto Centre alongwith his servant-Om had an altercation with Pankaj and therefore, Buta Ram intervened to pacify the dispute between them. In the meantime, Pankaj approached the complainant and apprised him about beatings given to him and Buta Ram and therefore, complainant proceeded at the spot, where he

found present Om, while holding an iron rod in his hand, Jasbir (petitioner herein) with a danda and both were giving beatings to Buta Ram. It is alleged that Om gave an iron blow on the head and arm of Buta Ram and thereafter, both accused left the spot after seeing the complainant. Complainant shifted Buta Ram to his house as he did not sustain any external injury. However, on 28.11.2021, the health of Buta Ram deteriorated and thereafter, his family members shifted him in Nilokheri hospital, but the doctors referred him to higher centre at Karnal. Consequently, Buta Ram was admitted in KCGMCH, Karnal. Buta Ram died in the hospital on 15.12.2021.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is a senior citizen, aged about 71 years and during investigation, he has been found innocent and was not sent for trial by the investigating agency, while submitting the final report under Section 173 Cr.P.C. Later on, the petitioner was summoned as an additional accused under Section 319 Cr.P.C. Moreover, the complainant himself has stated that the deceased has not received any serious injury and has fallen at his home. Thereafter on 28.11.2021, the deceased was taken to Nilokhedi Hospital and at the time of his admission, it was mentioned by the nephew of the deceased in the admission register of the hospital that the deceased had fallen after consuming the alcohol and they do not want any police action and the FIR (supra) was lodged after a delay of 07 days. The medical record further indicates that the deceased was the person having compromised state of health due to Tuberculous Pneumonia, which was established in the Histopathological Examination Report. The petitioner is behind the bars since 21.12.2023 and the main accused, namely, Om has been granted the concession of regular bail vide order dated 29.11.2023, passed by learned Sessions Judge, Karnal.

4. Per contra, the learned State counsel has produced the custody

certificate and opposes the prayer of grant of regular bail to the petitioner on the ground that specific attribution of causing injuries to deceased, by the petitioner, is given in the FIR (supra) and he has been summoned as additional accused under Section 319 Cr.P.C.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that co-accused Om has been released on regular bail, who was sent for trial in the final report, submitted under Section 173 Cr.P.C. The petitioner was initially found innocent and has been summoned only under Section 319 Cr.P.C. as additional accused. There are total 22 prosecution witnesses and after summoning the petitioner-accused under Section 319 Cr.P.C., the trial would commence *de novo*, which is likely to take long time to conclude.

6. Keeping in view the fact that the petitioner is not involved in any other case and is aged about 71 years, the present petition is allowed. Without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Jasbir Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

February 22, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |