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(225)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision :25.07.2024

AKASHDEEP GAUTAM

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.S. Hundal, Advocate with
Mr. Gursahib Singh Hundal, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in this 3rd petition under Section 439 of Cr.P.C.
is for the grant of regular bail to the petitioner in case FIR No.0200
dated 13.12.2021 registered under Sections 302, 120-B, 34 IPC at Police
Station Shahpurkandi, District Pathankot (Punjab).

2. The present FIR came to be registered at the instance of
Sardari Lal son of Kesar Chand and the same reads as under:-

*“Statement of Sardari Lal son of Kesar Chand resident of
Village Dung PS Shahpur Kandi Tehsil and District
Pathankot aged about 61 years mobile No 07/05/2008-
46397, stated that I am a resident of abovementioned
address and doing work of agriculture. On 13.12.2021 at
about 08:45 AM I came to the Atta Chakki of Basant
Singh at Matti in order to bring the flour. Alongwith me
my nephew Dinesh Kumar son of Hans Raj who is barber
by profession, was also there. When I reached near the*



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Atta Chakki of Basant Singh that my nephew Dinesh Kumar was just to open the shutter of rented shop, then Shankar Deep Gautam of our village armed with Axe (Kulhari) and his brother Akashdeep Gautam armed with Dattar came there and while I was seeing, Shankar Deep Gautam raised lalkara to catch hold Dinesh Kumar and to teach him a lesson for fighting with us, then in the meantime Akashdeep Gautam gave a blow of Dattar on my nephew Dinesh Kumar while he was opening the shutter, which struck on his forehead. Thereafter while I was watching, Shankardeep Gautam gave axe blow to my nephew which also struck on his forehead and the blood started oozing from my nephew and he became unconscious and fell on the ground. While my nephew was lying on the ground they both also gave kick blows to him which hit on the different parts of his body. Thereafter I raised alarm while running and came forward, then both the assailants ran away from the spot. Dattar of Akashdeep Gautam was left there and Shankardeep Gautam took his Axe along with him. Akashdeep Gautam has parked his bullet motorcycle on one side and they ran away while riding the same. Few days ago when I along with my nephew Dinesh Kumar was passing through the street then Rameshwar Nath son of Diwan Chand, Anant Isher Gautam son of Rameshwar Nath, Nilam Devi wife of Satdev Gautam, Bhagwan Krishan son of Diwan Chand, Radha Rani wife of Bhagwan Krishan, Akashdeep Gautam, Shankardeep Gautam sons of Bhagwan Krishan were sitting in the courtyard of Bhagwan Krishan and on seeing us, they told that they had caused injuries on the persons of Akashdeep Gautam and Shankardeep Gautam with the help of dattar and as such we will teach a lesson to them and also to kill them. Due to fear we left the place



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and did not disclose this to anybody. I along with Surinder Kumar son of Janam Singh resident of village Matti, Punan Singh son of Govind Singh resident of village Matti police station Shahpurkandi after arranging vehicle at the spot took my nephew Dinesh Kumar to civil Hospital Pathankot, where Doctor after checking declared my nephew dead, then I deposited that body of my nephew in the dead house of the civil Hospital Pathankot and gave information of this at house and to other relatives, where you came to civil Hospital. I am complainant. Appropriate legal action be taken against accused persons. Statement has been got recorded heard and found correct. Sd/- Sardari Lal”

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. One injury each has been attributed to the petitioner and Shankardeep Gautam. However, as per the PMR, there was only one injury on the person of the deceased. Therefore, the medical evidence was contrary to the ocular account. In fact, the complainant had not witnessed the occurrence. Be that as it may, taking the allegations to be correct, as two accused had been attributed one injury and it was not clear as to which of them had caused the said injury, therefore, the petitioner was entitled to the concession of bail. Even otherwise, he was in custody since 13.12.2021 and the Trial had not made any progress.

4. On the other hand, the learned State counsel while referring to the reply dated 15.05.2024 contends that the Dattar used by the petitioner was recovered at the spot itself. The petitioner was arrested on

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13.12.2021 along with his co-accused Shankardeep Gautam etc. The axe used by Shankardeep Gautam was got recovered at his instance. Both the weapons recovered had blood-stains on them. A specific role has been attributed to the petitioner and his co-accused Shankardeep Gautam. Three prosecution witnesses had been examined but it was the defence which had not conducted the cross-examination of the said witnesses. An application had also been moved under Section 319 Cr.P.C. which was dismissed. It was the counsel for the accused that had sought an adjournment which had been opposed by the Public Prosecutor. As the deceased had been murdered in a most brutal manner and the petitioner was one of the main accused, he was not entitled to the concession of bail moreso when this was the third bail application of the petitioner and they were no significant change in circumstances after his first bail application had been argued and withdrawn.

5. I have heard the learned counsel for the parties.

6. As per the allegations levelled in the FIR, the petitioner is one of the main accused. A blood-stained weapon of offence purportedly used by the petitioner has been recovered. Similarly, yet another weapon of offence has been recovered at the instance of his co-accused namely, Shankardeep Gautam. Specific injuries have been attributed to both these accused. It would be a matter of adjudication during Trial as to which of the two accused have caused the fatal injury. It is the accused who had sought an adjournment even after the application under Section

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319 Cr.P.C. for summoning the co-accused accused was dismissed. Therefore, I do not deem it appropriate to grant the concession of bail to the petitioner and the present petition stands dismissed.

7. However, keeping in view the custody undergone by the petitioner, the Trial Court is directed to conclude the Trial as expeditiously as possible but in any case not later than six months from the next date fixed before it.

(JASJIT SINGH BEDI)
JUDGE

25.07.2024
JITESH

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