

CRM-M-8550-2024

2024:PHHC:032754

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : March 07, 2024

BALDEV SINGH ALIAS BALDEV RAJ

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vivek Salathia, Advocate for the petitioner.

Mr. Pardeep Bajaj, DAG, Punjab.

Mr. Amardeep Singh, Advocate for the complainant.

KULDEEP TIWARI, J. (Oral)

1. The petitioner, who has been summoned under Section 319 Cr.P.C., to face trial as an additional accused in case FIR No.65 dated 18.3.2020, under Sections 302, 323, 341, 506, 148, 149 of IPC, registered at Police Station Gate Hakima, District Police Commissionerate, Amritsar, and has an apprehension of his being arrested upon his appearance before the learned trial Court concerned, has filed the instant petition seeking pre-arrest bail.

2. The prosecution agency was set into motion on a complaint made by Jasbir Singh. The relevant extract of the complaint reads as under:-

“Statement of Jasbir Singh son of late Sh
Gurnam Singh resident of H. No.51D4/78, Gali Luhara
Opposite Govt. School Dapai Amritsar aged about 24

years, Mobile No.78884-63695 stated that I am resident of above said address and deals in providing Generators to the Bank on rent. We are three brother sisters. I am the elder in the family and younger to me Amandeep Singh who works alongwith me and younger to him Harwinder Singh aged about 20 years. My Cousin Lovepreet Singh aged about 17 years son of Sukhdev Singh who is appearing in 10th class yesterday on 17.03.2020 was returning home after appearing in paper of Punjabi in Govt. Girls Gurbakhash Nagar, Amritsar, then on the way Rajan, Shalu, Sagar, son of Jaspal Singh resident of Luhar Wali Gali Dapai Amritsar alongwith other 5-7 boys surrounded him and caused grievous injuries and Lovepreet ran away after saving his life, who explain the entire woe he had faced. My aunty Gursharan Kaur visited the house of above said Jaspal and registered protest. Thereafter, above said trio and by calling more boys in the street armed with sticks and knife abused which caused a atmosphere of terror and we after hiding in our house saved our life. Today at about 09.00, my youngest brother Harwinder Singh went out of house in connection with some work. When he reached near the house of Jaspal Singh, then Jaspal Singh and his son Rajan, Shalu, Sagar and alongwith them other Mungi S/o Om Parkash, Hans, Arjan son of Ajay, Rohil resident of Bhutanpura and other 8/10 unknown persons armed with sticks and sharp edge weapons surrounded him and started bearing him. We after hearing noise, ran towards that direction, then the accused also surrounded my second brother Amandeep Singh and my father Gurnam Singh and with their weapon did fighting and beating. Jaspal Singh attacked my father on head with baseball, thus my father instantly fell down. On

the spot persons gathered there and accused after seeing the people fled away alongwith their weapons. We, after arranging vehicle, took the injured to Civil Hospital, Amritsar for treatment. My father, since had grievous injuries, was taken to Guru Nanak Dev Hospital, where during his treatment he died. The accused persons after surrounding them, beat them and caused injuries to my father and murdered him. Action be taken. The reason behind the revenge is that son of Jaspal i.e. Rajan, Sagar, Shalu and after calling other boys stand outside our house and bothered the girls crossing the street and we are against their activity. The incident of beating and murder has taken place on the provocation of Baldev Singh son of Shori Lal brother of Jaspal Singh, resident of Bhutanpura who was raising lalkara at the time of fighting and had been giving threats to kill. Even now we have danger to our life from these accused persons.”

3. A perusal of the FIR(supra), transpires that the role attributed to the present petitioner is that he provoked the other co-accused to commit the crime. From the record it is further transpired that the petitioner was declared innocent on the account that he was not found at the place of occurrence. In the instant case, seven persons have been put to face trial by the investigating agency, whereas, five persons were infact declared innocent by the investigating agency. After examination of complainant-Jasbir Singh, an application under Section 319 Cr.P.C. was moved by the complainant through the learned Public Prosecutor, which was allowed by the learned trial Court concerned and five persons including the present petitioner were summoned to face trial alongwith other co-accused.

4. Learned counsel for the petitioner in the asking for the relief of pre-arrest bail, submits that one injury, which was proved to be fatal and was caused by Jaspal Singh, to Gurnam Singh, whereas, the other injuries are attributed to the other co-accused, who are facing trial. He further submits that except Jaspal Singh, who is the main accused, all other co-accused have been granted the relief of regular bail. He further submits that the basic object of summoning the present petitioner under Section 319 Cr.P.C. is to join the trial and moreover, his custodial interrogation is not further required.

5. Per contra, the asked for relief of pre-arrest bail has been opposed by the learned State counsel and he further submits that it is a case of murder, therefore, the petitioner shall not be granted the extraordinary relief of pre-arrest bail.

6. Learned counsel for the complainant has also opposed the contention of the learned counsel for the petitioner, on the ground that the present petitioner, who provoked the other co-accused to commit the murder of one Gurnam Singh and the investigating agency in sheer biasness declared the present petitioner as innocent.

7. Be that as it may, considering the fact that no injury is attributed to the present petitioner, neither to the deceased nor to any other injured persons and also considering the fact that the petitioner was declared innocent during the investigation and the basic purpose of summoning the present petitioner under Section 319 Cr.P.C. to face trial alongwith other co-accused, this Court deems it fit and appropriate to

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grant the extra ordinary relief of pre-arrest bail.

8. Therefore, the instant petition is **allowed** and the petitioner is directed to surrender before the learned trial Court concerned within 15 days from today. Upon his surrendering before the learned trial Court concerned, he shall be released on regular bail, subject to his furnishing personal bonds and surety to the satisfaction of the the learned trial Court concerned.

9. In case, the petitioner fails to cause an appearance before the learned trial Court concerned within 15 days from today, the interim relief granted by this Court shall be deemed to be *ipso-facto* vacated without any further reference to this Court.

March 07, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No