

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(216) CRM-M-13197-2023
Date of Decision:- 07.03.2024

Deepak Kumar @ DeepakPetitioner
Versus
State of PunjabRespondent

CORAM: HON’BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vaibhav Narang, Advocate for the petitioner.
Mr. Akshay Kumar, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

- 1 Through the instant petition filed under Section 439 Cr.P.C., the prayer is made for grant of regular bail to the petitioner in case FIR No.117, dated 19.07.2022, under Sections 302, 34 IPC, (Section 324 IPC, added lateron) registered at Police Station Majitha, District Amritsar.
- 2 Short reply by way of affidavit of Jaspal Singh, PPS, Deputy Superintendent of Police, Sub Divison Majitha, Amritsar and custody certificate of the petitioner have been filed today in Court, which are taken on record.
- 3 On a statement made by one Karanjit Singh, the prosecution agency was set into motion. The gist of the allegations as extracted from by reading of FIR is as under:-

“Statement Karanjit Singh s/o Harjit Singh resident of

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Galowali Colony, PS Majitha Road District Amritsar aged about 19 years Mobile No. 9878897085. It is stated that I am resident of above mentioned address and I do the work of putting tiles and stones and we are 3 brothers. The eldest is Amritpal Singh, I am younger to him and the youngest is Pawanjeet Singh aged about 16 years. Yesterday on 18-07-2022 all of us brothers were present in our house when in the village there was birthday party of daughter of Karan son of Shiv Kumar in which my elder brother Amritpal Singh had also gone. Due to sunset to get him I alongwith my younger brother Pawanjeet Singh and our father Harjit Singh had gone and time was around 9/9:30 PM at night and we saw that Ajay son of Prakash, Suraj son of Rampal, Sanjay son of Vijay Pal and Deepak present Sarpanch residents of Galowall Colony were arguing with my brother Amritpal Singh on something and we stopped them from arguing then Deepak Sarpanch gave a Lalkara that catch hold of them and teach them a lesson for arguing with us and then Ajay and Suraj held my younger brother Pawanjeet Singh from his arms and Sanjay attacked my brother Pawanjeet Singh with his Datar which hit him on his right side of neck and he fell on ground while bleeding profusely and my father went ahead to save him then Sanjay attacked my father with Dattar which hit him on his right thigh. We shouted and made noise of "Maar Ditta Maar Ditta" when the above mentioned persons ran away from the spot with their weapons. The entire incident has been seen by my brother Amritpal Singh and father Harjity Singh with their own eyes. We after arranging a vehicle took our brother to Bajws Hospital Majitha where the Doctor after checking my brother Pawanjeet Singh outside Hospital only told us that he is no more. Till now we were occupied in telling about the

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death of my brother to our relatives. I after leaving my father and brother went near the dead body of my brother was coming to you for informing that I found you. Got my stamen recorded. The abovementioned accused persons in connivance with each other have killed my brother Pawanjeet Singh while beating him. Appropriate legal action be taken against the abovementioned persons. Have heard my statement, it is correct. Correct/- Karanjit Singh above Verification Correct/- Jangbahadur Singh SI PS Majitha dated 19-07-2022. Police proceedings: Today I SI along with SI Tarlok Singh 1425, ASI Baldev Singh 1135, ASI Jagdeep Singh 362, ASI Gurnam Singh 318, HC Sukwinder Singh 311, HC Jaspal Singh 1801, CT Resham Singh 03, L/HC Parminder Singh 736, PHG Sarabjit Singh 19685 in public vehicle whose driver was ASI Ranjit Singh 484 alongwith laptop printer kit were present at Bus stand Majitha in relation to patrolling that Karnjit Singh son of Harjit Singh abovementioned came present before me and got his abovementioned statement recorded whose statement was recorded, read over to him who after finding the statement to be correct signed on the same at the bottom in Punjabi which was verified by me. From the statement, offences under section 302, 34 IPC were made out. On which the statement was sent through hand for registration of case by CT Kesham Singh 03 to the police station. After registration of the FIR the number of FIR be informed and preparing special reports the same may be sent to higher officials. The Control Room be informed.”

4 A perusal of the allegations made collaborations that the only attribution given to the present petitioner, is a ‘Lalkara’. Learned

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counsel for the petitioner in asking for relief of regular bail to the petitioner submits that no overt act, whatsoever, is attributed to the present petitioner. As per the allegations, the petitioner was present on the spot, but was empty handed, he did not even caught hold of the deceased. Learned counsel for the petitioner further submits that the deceased suffered only one injury which is attributed to the co-accused Sanjay, which has been proved to be fatal to the deceased. In these circumstances, the petitioner cannot be arraigned as an accused with the aid of Section 34 IPC. He further submits that it is a case of false implication as he being Sarpanch of the village, has been implicated in this case on account of political rivalry, and he has no relation with the accused, or with the deceased. He further submits that the petitioner is behind the bars since last more than One and a half years and is not involved in any other case.

5 The instant bail applicaiton was opposed by learned State counsel by drawing attention of this Court to para No.8 of the short reply (supra), wherein also it was mentioned that the only role which was attributed to the present petitioner is of raising 'Lalkara' (exonerations).

6 The custody certificate further revealed that the petitioner is not involved in any other case and he has suffered incarceration about 1 years, 6 months and 27 days. It is transpired from the short reply (supra) that no prosecution witness has been examined so far. The final report was filed by the Investigating Officer in the trial Court on dated 17.10.2022, and thereupon, the trial was committed by the learned JMIC concerned to the Sessions Court, Amritsar, vide order dated 13.01.2023,

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and out of total 22 prosecution witnesses, none has been examined till date.

7 This Court, without commenting on the merits of the case, deem it fit and appropriate to extend the benefit of regular bail to the petitioner, and considering the role attributed to the present petitioner, and the length of incarceration suffered by the petitioner, and the stage of trial, which is yet to begin, and the completion of the same will take considerable long time. Therefore, the present petition is **allowed**.

8 The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

9 However, anything observed here-in-above shall have no effect on the merits of the case, and is meant for deciding the present petition only.

March 07, 2024
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(KULDEEP TIWARI)
JUDGE

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