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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13486-2024 (O & M)
Date of decision: 20.03.2024

Gurmail Singh @ Manga Petitioner
V/s
State of Punjab ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Riffi Birla, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in a case FIR No.89 dated 08.07.2023 under Sections 308/34 IPC (offence under Section 302 IPC added later on) registered at Police Station Khuian Sarwar, District Fazilka.

2. The present FIR came to be registered at the instance of Baljinder Singh son of Resham Singh and reads as under:-

“Statement of Baljinder Singh son of Resham Singh son of Kartar Singh resident of village Sappan Wali, Tehsil Abohar, District Fazilka aged about 42 years, mb. no. 80543-49837. Stated that I am resident of aforesaid address and has studied upto +2 class and do labour works. We are three brothers and three sisters. The eldest brother is Dilbagh Singh, younger to him is Iqbal Singh and I am younger to him. My brother Dilbagh Singh has one son Ajay Singh aged about 20 years and daughter Ramandeep Kaur aged about 17 years. My nephew Ajay Singh has cleared +2 from Government school village

Sappan Wali, who now alongwith studies do labour work. My brother Dilbagh had died about 11 years ago. On 06.07.2023 my nephew Ajay Singh went to play at playground in the village and I was also present in the ground. At about 07 O'clock in the evening, residents of our village namely Sahil Goru son of Nirmal Singh armed with stick and alongwith him Gurmail Singh Manga son of Jaggar Singh, Parveen @ Peena son of Karnail Singh and Surjit Singh @ Gaggu son of Kuldeep Singh came and on coming Gurmail Singh Manga raised Lalkara that today Ajay is not to be spade and Sahil @ Goru aforesaid gave two blows of danda, on the head of my nephew Ajay Singh, which hit on the backside and on the upper side of the head, due to which my nephew Ajay Singh got unconscious and aforesaid all four ran away with their weapon. I took care of my nephew Ajay Singh and after arranging the vehicle got him admitted at Government Hosptial, Abohar with the help of my other nephew Maninder Singh son of Iqbal Singh, where doctor referred Ajay Singh aforesaid to GGS medical college Faridkot due to receipt of many injuries but we got admitted Ajay Singh at Anand Hosptial, Sri Ganga Nagar for treatment. The bone of contention is that Gagandeep kaur daughter of Sukhdev singh r/o Sappan wali and my nephew Ajay Singh are neighbor and being neighbors they are familiar to each other and also used to pay visits to each other house. Sahil @ Goru, Gurmail Singh @ Manga and Surjit Singh @ Gaggu are relatives of Gagandeep Kaur, Parveen @ Peena is paternal uncle of aforesaid girl and aforesaid all four had doubt regarding Gagandeep Kaur and my nephew Ajay Singh, due to which aforesaid four in furtherance of common intention attacked Ajay Singh with intention to kill him. Appropriate legal action may kindly be taken against aforesaid, yesterday I had went to relations to arrange the money. Statement has been recorded, heard it is correct. Sd/ in English Baljinder Singh aforesaid, verified by Sd/- Harpreet Singh SI/ SHO, P.S. Khuian Sarwar, dated 08.07.2023”.

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3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. The complainant party itself had stated that they would get recorded the FIR later which shows manipulation. In fact, the complainant-Baljinder Singh was present in Chandigarh but had been shown to be an eye-witness. However, taking the allegations to be correct, the petitioner had only raised a *lalkara*. As he was a first-time offender, in custody since 09.07.2023, and only 03 out of the 24 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon. Therefore, the petitioner was entitled to the concession of bail, *moreso*, when two similarly situated co-accused, namely, Surjeet Singh @ Gaggu and Parveen Kumar @ Peena had been granted bail vide orders dated 08.02.2024 and 27.02.2024 (Annexures P-3 and P-4 respectively).

4. The learned counsel for the State, on the other hand, contends that all the accused had brutally assaulted the deceased leading to his death. The culpability of the petitioner was clearly made out with the aid of Section 34 IPC. Therefore, he was not entitled to the grant of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 09.07.2023 and that only 03 out of the 24 prosecution witnesses had been examined so far.

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

6. The culpability of the petitioner with the aid of Section 34 IPC shall be adjudicated upon during the course of the Trial. The petitioner is a first-time offender, in custody since 09.07.2023 and only 03 out of 24 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the

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further incarceration of the petitioner is not required, moreso, when two co-accused have been granted the similar relief.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Gurmail Singh @ Manga is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other case/crime other than the present one.

9. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

March 20, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No