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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

237

CRM-M-19154-2024
Date of decision : 25.04.2024

Vishwas Singh @ Dhoni Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. R.S. Manhas, Advocate and
Mr. Mrinal Dewan, Advocate
for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.164 dated 21.12.2023, registered for the offences punishable under Sections 302, 323 and 34 of IPC at Police Station Division No.2, Pathankot, District Pathankot.
2. As per the contents of the FIR, it has been alleged as under:-

“Statement of Sunil Kumar son of Late Kaka Ram r/o Patel Chowk, Ward No.31, Pathankot, aged about 29 years, Mobile No.94178-28424, stated that I am resident of above mentioned address and drives auto. Today on 21.12.2023 at about 08:00, I came out of my house in the street to start auto to go to my work and I saw that Raj Kumar @ Billa s/o Mangu Ram r/o Patel Chowk Pathankot, who is our neighbor, Pawan s/o Gian Chand r/o Sunder Nagar Pathankot who is residing along with family

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on the first floor of Godown of Dayal, were scuffling with each other. I made understand to Raj Kumar @ Billa and sent him to home. In the meantime, Nitin Kumar s/o Pawan told me, who was standing on the roof of the warehouse that you are not able to talk to the persons whose girl was expelled. I told him that do not take our name and do your own thing. On hearing this, Nitin Kumar stepped down from the roof of the warehouse and scuffled with me and he picked up the brick and tried to gave me brick blow and I step forward to rescue myself then he caught me. I raised alarm and on hearing my noise, Sahil s/o Kartar Chand and my father Kaka Ram residents of Patel Chowk came on the spot and they tried to save me from Nitin Kumar. In the meanwhile, Vishwas Kumar Dhoni s/o Pawan gave a brick blow in the head of my father Kaka Ram s/o Dammu Ram which hit on the backside of his head. We raised alarm and the people started gathered there, on seeing that Pawan along with other two boys ran away from the spot. Pawan used bad words and dragged me also. Thereafter, due to the swelling on the backside of the head of my father Kaka Ram, when I was taking my father to the hospital, on the way near KD hospital, my father Kaka Ram fell down then I along with Pawan Kumar s/o Kehar Chand r/o Patel Chowk took my father Kaka Ram to Civil Hospital Pathankot where the treatment was started in emergency and after sometime, my father died. My father died due to the swelling occurred due to the injury with brick blow. The dead body is kept in mortuary. The legal action may kindly be taken against Pawan, Nitin Kumar and Vishwas Kumar

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Dhoni. I also received injuries on my back and right wrist. The statement has been recorded, heard and is correct. Sd/- Sunil Kumar.”

3. Counsel for the petitioner submits that the allegation against the petitioner is of having caused injury on the back of the head of the deceased by brickbat. He further has drawn attention of the Court to post mortem report which shows that there was only one injury found on the person of the deceased which reads as under:-

“1 CM x 0.5 CM LACERATED ABRASION ON THE LEFT WRIST DORSAL SURFACE WITH BLOOD AROUND IT AND REDDISH BROWN CONTUSION PRESENT ON THE WRIST.”

4. Further relies upon histopathology examination report to contend that as per the same, the cause of death of the deceased has been opined to be myocardial infraction and not any injury.

5. Petitioner is behind bars for more than 04 months and 03 days and has clean antecedents. Challan stands presented.

6. State counsel is not in a position to dispute the aforesaid factual assertions based on record.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

25.04.2024

Whether speaking/reasoned : Yes
Whether Reportable : No