



CRM-M-19137-2024

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-19137-2024

Date of decision : 02.07.2024

Mandeep Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Manjeet Singh, Advocate and
Mr.J.P.Jangu, Advocate
for the petitioner.

Mr.Naveen S. Bhardwaj, Addl.A.G. Haryana.

Mr.Abhishek Sindhvani, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

1. This is the third petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.97 dated 06.04.2021 registered under Sections 302, 323 IPC at Police Station Uchana, District Jind.
2. Status report by way of affidavit dated 22.06.2024 has been filed by learned State counsel, which is taken on record.
3. Learned counsel for the petitioner has submitted that the petitioner has been in custody since 09.04.2021 (more than 3 years and 2 months) and as per paragraph 10 of the affidavit dated 22.06.2024 filed by the State, it has been stated that out of 24 prosecution witnesses, 15

**CRM-M-19137-2024****2**

case, an application under Section 319 Cr.P.C. was filed by the complainant Nafe Singh for summoning additional accused which included the wife of the deceased and the same was dismissed by the trial court vide order dated 21.11.2022 and against the said order, the said Nafe Singh has filed CRR-2705-2022 and in the said case vide order dated 11.12.2023, the Coordinate Bench of this Court has ordered that the trial Court be directed to adjourn the case beyond the date fixed. It is further stated that the above said criminal revision is now fixed for 27.09.2024 and the interim order is continuing and in view of the same, the trial is not likely to conclude in the near future. It is submitted that solely on the basis of the custody of the petitioner, the petitioner deserves the concession of regular bail moreso, since there is no other criminal case pending against the petitioner. It is further submitted that even a perusal of the FIR would show that there was dispute between the deceased Sandeep son of Nafe Singh and his wife Usha, who is the sister of the present petitioner. It is stated that a perusal of paragraph 9 of the reply dated 22.06.2024 would show that even as per the case of the prosecution, it has been stated that Usha, who is sister of the petitioner and the wife of deceased Sandeep, had been calling up the helpline on 01.04.2021 i.e., prior to the date of the incident which took place on 05.04.2021 and the petitioner had also called the police control room on 05.04.2021. It is further highlighted that even as per the case of the prosecution, when the petitioner-accused made his sister namely Usha and her children sit in the car, then the deceased had objected to taking of his children and thereafter confrontation had taken place at the spur of the moment. It is argued that from the said averments, it is apparent that even if



CRM-M-19137-2024

3

the case of the prosecution is taken on its face value, then also it is apparent that there was no intention of the petitioner to murder the deceased. It is submitted that as per the FIR, the petitioner had assaulted the deceased with a “sua” and the said “sua” had been taken into possession by the police and as per paragraph 11 of the reply dated 22.06.2024, blood was not detected on the said “sua”. Paragraphs 9 and 11 of the reply dated 22.06.2024, which have been highlighted by learned counsel for the petitioner, are reproduced hereinbelow:-

“9. That on 11.06.2021, 13.06.2021 and 19.06.2021, a detailed verification of the facts and investigation of the case was conducted by ASP, Safidon. During the process of verification, it was found that Usha w/o deceased Sandeep had called at women helpline No. 1091 at 06.41 p.m. and 06.42 p.m. on 01.04.2021 and at 05.32 p.m. on 05.04.2021, which shows that there were disputes between the deceased and his wife. The petitioner- accused Mandeep Kumar is also found to call the police control room, Jind at 09.45 p.m. on 05.04.2021. These facts establish that petitioner-accused Mandeep Kumar alongwith one Sandeep Foji and driver namely Ravindra went to the deceased's place to take his sister and her children with him. After reaching the village of the deceased namely Surbara, they were found to meet Vikash @ Mota, Sanjiv and Monu, who are members of deceased's family. The petitioner-accused is also found to call their mediator namely Ramniwas of village Surbara and met him. After all this when the petitioner-accused got his sister namely Usha and her children sit in the car, deceased objected to taking of his children and a confrontation took place between the deceased and the petitioner-accused. Further from the statement of Harsh- daughter of the deceased and other material available on record, it was found that at the time of the confrontation between the petitioner-accused and Sandeep deceased, Usha and both her children were present in the car along with the driver namely Ravindra and the other person namely Sandeep were sitting with the parents of the deceased. So it became clear that the actual confrontation was between the petitioner accused and the deceased only, other people were only trying to assuage them. In the course of this



CRM-M-19137-2024

4

confrontation, petitioner-accused hit and suffered injuries upon the person of the deceased with bodkin and tester screwdriver, to which the deceased succumbed eventually. No evidence surfaced on record to show the common intention of the accused persons. Going through the material available on record, only accused namely Mandeep Kumar was found to be the true culprit of the case and other accused namely Usha, Sandeep and Ravindra were found innocent in the case. At this stage of the investigation, section 34 of the IPC was deleted from this case.

xxx xxx xxx

11. *That the on 25.08.2021, a report No. 21/FSL MBN-21-2106013555: S-425/2021 dated 30.06.2021 regarding serological analysis of blood was received from Forensic Science Laboratory Madhuban detecting therein the presence of human blood over exhibits viz-viz Kurta, Pyjama. A copy of the report dated 30.06.2021 of FSL, Madhuban is being annexed as Annexure R-3 However, the relevant extract of the report dated 30.06.2021 is reproduced as under:-*

"1. Exhibit-1a (Kurta) and Exhibit-1b(Pyjama) were stained with few blood stains.

2. Blood could not be detected on Exhibit-1c (banian), Exhibit-1d (Underwear), Exhibit-2(Sua) and Exhibit-3) Screwdriver/Tester)."

It is further submitted that the last bail application of the petitioner was dismissed on 24.02.2023 at that stage and subsequent to the same, sufficient time has elapsed but on account of the filing of the above said criminal revision, the trial is not likely to conclude in near future. On the basis of the said facts and circumstances, it is prayed that the petitioner be released on regular bail.

5. Learned counsel for the State as well as learned counsel for the complainant have opposed the present petition for grant of regular bail and have submitted that the petitioner is the main accused in the present case and it is the case of the prosecution that the petitioner is the person, who had assaulted the deceased with a "sua" in his hand and on account of



injuries caused, the deceased died. It is further submitted that call detail records also substantiate the presence of the deceased on the place of occurrence and even the prosecution witnesses, who have been examined, have also supported the case of the prosecution.

6. This Court has heard the learned counsel for the parties and has perused the paper book.

7. It is not in dispute that the petitioner has been in custody since 09.04.2021 and an application was filed by the complainant Nafe Singh under Section 319 Cr.P.C. for summoning additional accused including the wife of the deceased, Usha, who is sister of the petitioner. The said application was dismissed by the trial Court on 21.11.2022 and the said Nafe Singh has filed CRR-2705-2022 in which the Coordinate Bench of this Court vide order dated 11.12.2023 had passed an interim order directing the trial Court to adjourn the case beyond the date fixed by the Court and the said criminal revision petition is stated to be pending for 27.09.2024 and the interim order is stated to be continued. In view of the above said facts, it is apparent that the trial will not be concluded in the near future. The petitioner has also been in custody for a period of more than 3 years and 2 months. There is no other criminal case pending against the petitioner. Certain arguable points have also been raised by learned counsel for the petitioner, which have been noticed hereinabove, including the fact that as per the report of the FSL, no blood stains have been detected from the “sua” which was stated to be the weapon used by the petitioner to kill the deceased. It is further highlighted that as per the case of the prosecution, the



CRM-M-19137-2024 6

and after the deceased had objected to the same, confrontation had taken place. It is the argument of learned counsel for the petitioner that even if the said facts are taken on their face value, it cannot be said that the petitioner had intent to murder his brother-in-law. This Court does not wish to give any final opinion with respect to the said argument raised, lest, it may affect / prejudice the rights of either of the parties and it would be open to all the parties to raise all pleas before the trial Court.

8. Keeping in view the above said facts and circumstances moreso, the custody of the petitioner, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

9. However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

10. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

July 02, 2024
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No