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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-24490-2024

DATE OF DECISION: 21.05.2024

GURWINDER SINGH ALIAS HONEY ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.S. Ahhi, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 16, dated 25.02.2023, under Sections 323/506/34/307 IPC (Section 302 of IPC added later on), registered at Police Station Ballianwali, District Bathinda.

2. Learned counsel for the petitioner contends that as far as the involvement of the petitioner is concerned, the petitioner was present at the spot and armed with spade but no injury whatsoever has been attributed to him. The petitioner is in custody for more than one year despite the fact that in all probabilities, he would not be convicted under Section 302 IPC.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. Copy of the same has been



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furnished to learned counsel for the petitioner. According to which, the petitioner is behind bars for last 1 year, 2 months and 14 days who is not involved in any other case. He though admits that the petitioner has not been attributed any specific injury on the person of the deceased but was present at the spot and was armed with spade. On a further query put by the Court, he on instructions from ASI Kaur Singh submits that it was only one fatal blow on the person of the deceased which was given by co-accused Sukhwinder Singh @ Sunty Singh on head with reverse side of the spade.

4. Be that as it may, keeping in view the facts that the petitioner is not involved in any other case, meaning thereby he is not a habitual offender and he has not been attributed any specific injury, the petitioner is in custody for more than 1 year and as per the principle of the criminal jurisprudence, no one should be considered as guilty till the guilt is proved beyond reasonable doubt, whereas in the instant case, trial is prolonged and likely to take long time in the light of the facts that charges have been framed on 25.07.2023, out of 15 prosecution witnesses, chief of 3 prosecution witnesses have been done and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another; (2018) 3 SCC 22”**.



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5. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

6. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

7. The petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

21.05.2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>