

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228

CRM-M-27014-2024
Date of decision: 20.08.2024

PARDEEP KUMAR
Versus
....Petitioner

STATE OF PUNJAB
...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

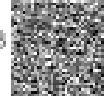
Present : Mr. M.S. Rana, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition filed under Section 439 Cr.P.C. the petitioner pray for grant of regular bail in case FIR No.136, dated 17.11.2022, under Sections 302, 323 and 34 of the IPC, registered at Police Station Khuian Sarwar, District Fazilka.
2. The prosecution agency was set into motion on a statement made by one Surjit Singh, the relevant extract of the FIR reads as under:-

"Statement of Surjeet Singh son of Pritam Singh resident of village Dalmeer Khera Police Station Khulan Sarwar aged about 32 Years Mobile No.9465505298 stating that I am resident of abovesaid address and is working as Driver on AVS Transport Company, while Bhim Sain son of Om Parkash son of Purkha Ram resident of village Waryam Khera is working as Conductor in the same company. Both of them used to travel on a motorcycle together to attend their duties. We used to park their motorcycle at village Shergarh in the morning and further used to travel together on my motorcycle to go to their villages in the evening. He further stated that on 16.11.2022 in the evening, while riding Splendor motor cycle bearing registration No. PB46-E-2432, we were going from village Shergarh to link road Waryam Khera. Motor cycle was being driven by Bhim Sain and I was the pillion rider. At about 8.00 pm, when we reached about one kilometer behind from village Waryam



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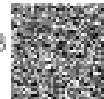
Khera, four persons with muffled face one of them carrying iron rod, Two people were baseball and fourth one was carrying hockey were standing on the way. All the assailants stopped them with the help of torch. One another assailant was standing near a motor cycle. When Bhim Sain stopped his motor cycle, one unknown person, who was carrying iron rod, asked his name in Bagari Language who are you then, Bhim Sain disclosed his identity, whereupon, all the four assailants, with an intention to kill, attacked Bhim Sain with their respective weapons. When I came forward to save Bhim Sain, then a person carrying baseball caused injuries to me with baseball bat hitting me on right eye and right cheek. When Bhim Sain raised his hand to save from the blow, unidentified persons gave injuries on both his hands. Bhim Sain fell on the ground and all the assailants caused him more injuries and murdered him. Thereafter, all the four unidentified persons ran away from the spot alongwith their respective weapons by riding their motorcycles towards Warryam Khera. Then I raise hue and cry then on being informed, my brother Gurmukh Singh and family members of deceased Bhim Sain came at the spot. I disclosed the whole incident to them. Then my brother Gurmukh Singh got admitted to Civil Hospital, Abohar for further treatment. I can identify the four assailants in they are brought in front of me who murdered Bhim Sain and also injured me. Action be taken against abovesaid four persons."

3. Learned counsel for the petitioner submit that the only star witness i.e. the complainant/injured, who stepped into the witness box as PW-3, did not support the case of the prosecution, and has turned hostile.

4. He further submit that there is no other evidence with the prosecution which can connect the present petitioner with the alleged crime.

5. He also submit that the petitioner has already suffered incarceration of approximately 01 year and 06 months, as of today, and out of the total 26 prosecution witnesses cited in the final report, 14 prosecution witnesses have been examined till date, therefore, the conclusion of trial will take long time.

6. *Per contra*, the learned State counsel vociferously opposed the grant of regular bail to the present petitioner, and has placed on record the reply by way of affidavit dated 09.08.2024, of Sh. Arun Mundan, PPS, Deputy Superintendent



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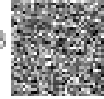
of Police, Sub-Division Abohar, District Fazilka, on behalf of respondent-State, as well as the custody certificate *qua* the petitioner, which are taken on record. A perusal of the custody certificate reveals that the petitioner has suffered incarceration of 01 year, 05 months and 29 days, as on today. A perusal of the custody certificate further reveals that the petitioner is not involved in any other criminal case. Learned State counsel on instructions, imparted to him by ASI Pargat Singh, submits that after conclusion of the investigation, the final report under Section 173 Cr.P.C., had already been filed on 21.02.2023, and the charges were framed on 24.07.2023. Learned State counsel further submits that out of the total 26 prosecution witnesses cited in the final report, 14 witnesses have already been examined till date.

7. This Court has heard the learned counsel for both the parties concerned, and has gone through the entire case file, and also the reply, as well as the custody certificate *qua* the petitioner.

8. A perusal of the reply (*supra*), reveals that, two persons suffered injuries, i.e. one Surjit Singh (complainant), and another Bhim Sain (since deceased). Whereas, Bhim Sain scummed to his injuries. In the reply (*supra*), the cause of death as reported by the Board of Doctors, reads as under:-

“In the opinion of the Board, cause of death is injury to vital organs like brain and excessive blood due to multiple injuries which is sufficient to cause death in ordinary course of nature.”

9. The motive which was assigned for committing the alleged crime, was that the accused Parveen, was residing in the neighbourhood of deceased Bhim Sain, and one Golu (uncle of the accused Parveen), who was also residing in the same street. Two months prior to the occurrence, the said Golu struck his

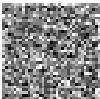


tractor-trolley against the wall of the deceased-Bhim Sain, due to which there was an altercation between accused Golu and Parveen, and Bhim Sain (since deceased). Furthermore, there was another instance of altercation between accused Parveen and Bhim Sain (deceased) on the pretext of playing DJ at high volume.

10. Therefore, the accused Parveen and Golu, were withholding a grudge against deceased Bhim Sain. All the accused including the present petitioner, in connivance with each other killed Bhim Sain, by inflicting injuries to him.

11. Though there are specific allegations against the present petitioner, that he has caused injuries to the deceased-Bhim Sain, however, considering the fact that the main star eye-witness of the prosecution, who is the complainant/injured, has turned hostile, and has not supported the case of prosecution, and the petitioner has suffered incarceration of 1 year, 05 months and 29 days, as on today, and trial will take some time to conclude. Also considering the fact that petitioner is on co-pedestal as that of his co-accused, who have already been granted the relief of regular bail by this Court in CRM-M-60073-2023, CRM-M-60366-2023, and CRM-M-14685-2024, vide orders dated 13.03.2024, and 16.05.2024 (Annexures P-2 & P-3), this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner, during the pendency of trial. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail, on furnishing of his bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

12. However, it is clarified that if in future, the petitioner is found



indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court.

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

20.08.2024	(KULDEEP TIWARI)
amandeep	JUDGE
Whether speaking/reasoned.	: Yes/No
Whether Reportable.	: Yes/No