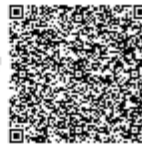


2024:PHHC:142660



211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32774-2023 (O&M)
DECIDED ON: 08.07.2024

PRABHJIT SINGH @ FAUJI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Brijesh Nandan, Advocate, for the petitioner.
Mr. Rajiv Verma, DAG, Punjab.
Mr. Vipin Mahajan, Advocate
for the complainant.

SANDEEP MOUDGIL, J

1. Relief Sought

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 52 dated 22.06.2021, under Sections 302, 148, 149 IPC, registered at Police Station Dera Baba Nanak, District Gurdaspur.

2. Facts

The prosecution story as narrated in the FIR reads as under:-

“Statement of Nirmal Singh son of Chanan Singh caste Jat resident of Nikko Saran PS Dera Baba Nanak aged about 48 years Mobile No: 9878561169, stated that I am resident of above said and do work of agriculture. Yesterday on 21.06.2021 at about 12 O' Clock noon that my brother Narinder Singh son of Chanan Singh resident of Nikko Saran was working in his fields. At that time Jagjit Singh son of Balkar Singh, Prabhjit Singh alias Fauji son of Balkar Singh,

Balkar Singh son of Bahadar Singh, Baljit Kaur wife of Prabhjit Singh residents of Nikko Saran and Daler Singh son of Swaran Singh resident of Batala Road Fatehgarh Churian and one unidentified person were working in their fields and I was also working in my fields. My uncle Mukhtiar Singh son of Bahadur Singh and my wife Jaskaranjit Kaur were standing on the way going towards their house. At that time Daler Singh raised Lalkara that Narinder Singh should not be spared today and he should be lesson for blocking the watercourse. On which Balkar Singh caught hold of my brother Narinder Singh from hairs and threw him on the ground Baljit Kaur handed over spade to her husband Prabhjit Singh and Prabhjit Singh gave a blow with spade to my brother which hit him on backside of head. Jagjit Singh unidentified person and Daler Singh gave kick blows to my brother on his stomach and caught hold of him from his hairs and dragged him. My wife Jaskaranjit Kaur and uncle Mukhtiar Singh ran to save my brother Narinder Singh and the aforesaid accused ran away with their weapons. This occurrence has been witnessed by me, my wife and my uncle Mukhtiar Singh. The cause of enmity was that Daler Singh had purchased a land from my uncles son namely Pritam Singh and a common water course runs through this land and this watercourse was dismantled and Narinder Singh used to stop them from dismantling the watercourse. Therefore the accused had inflicted injuries on my brother I and my uncle after arranging for the vehicle got admitted Narinder Singh at Guru Nanak Hospital Amritsar and during the course of treatment my brother Narinder Singh has died. After leaving my uncle with the dead body I was on the way and you met me. Action be taken Sd/- Nirmal Singh Attested by Avtar Singh Inspector SHO DBN."

3. **Submissions**

On behalf of the petitioner:-

It has been contended on behalf of learned counsel for the petitioner that a cursory examination of the FIR reveals that the petitioner and co-accused lacked the intent to kill the deceased. The absence of motive to kill is evident, and the incident appears to be a spontaneous act. It is further contended that the death of Narinder Singh was a result of sudden occurrence, and not a premeditated act. Additionally, the petitioner and co-accused were unarmed and working in their fields at the time of the incident, which further supports the lack

of intent to harm or kill. Moreover, the complainant was not even present at hospital as signature of complainant are missing in the Post Mortem Report, as the same carry signatures of one Gurbhej Singh and Jaspal Singh, who identified the body of the deceased.

On behalf of respondent-State and complainant:

Learned State counsel assisted by learned counsel for the complainant has vehemently opposes the prayer made in the present petition stating that there is a specific allegation against the petitioner that he gave a blow of spade on the person of the deceased, which hit on the back side of his head. The injury which proved fatal, has been attributed to the present petitioner. Accordingly, the petitioner does not deserve the concession of regular bail at this stage.

Heard learned counsel for the respective parties.

4. Analysis

The allegation against the petitioner is serious, as he inflicted the fatal head injury with a spade, resulting in death of Narinder Singh, which is sufficient for this Court to infer that the petitioner is directly involved in the crime. There is every possibility that if the petitioner is enlarged on bail he may influence the witnesses as he is facing trial for commission of heinous offence of murder which is punishable with the death penalty or imprisonment for life. Law is no longer *res-integra* that gravity and seriousness of offence is a relevant consideration for grant or refusal of bail. In the case in hand, the trial is a progress and if any finding or view is expressed by this Court at this stage regarding the credibility or evidentiary value of the witnesses examined so far, it would seriously prejudice the case of prosecution. Even the law is well settled

that where two views are possible, the view which refrains from granting bail to the accused must be followed. The law is well settled that it is the Judicial discretion of the Court to grant bail and the primary condition is that the gravity and seriousness of offence has to be considered by the Court and its impact upon the society at large.

5. Decision:-

Keeping in view the afore-said facts and circumstances and nature of averments, the petitioner does not deserve the concession of regular bail. Hence, the present petition is hereby, dismissed.

Pending criminal misc. application shall also dismissed.

(SANDEEP MOUDGIL)
JUDGE

08.07.2024

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