

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-38257 of 2022 (O&M)
Date of Decision: 02.04.2024

Lakhbir Singh @ Lakhvir Singh @ Kaka

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Arnav Sood, Advocate
For the petitioner.

Mr.J.S. Dhaliwal, DAG Punjab.

Mr. S.S. Brar, Advocate
For the complainant.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner seeking grant of regular bail in criminal case having FIR No. 141 dated 17.07.2021, registered under Sections 302 read with Section 34 IPC at Police Station Mukerian, District Hoshiarpur.

2. As per the allegations recorded in the FIR, complainant Neetu Bala reported to the police that on 16.07.2021 at about 7:30 p.m. she was standing outside the main gate of her house and in the meantime her brother-in-law Rohit Kumar also came and was parking his car in a shed which was across the road. In the meantime, Yogesh Kumar accompanied by one another unknown person reached there in a car and both of them came forward to attack Rohit Kumar and at that time Yogesh Kumar was armed with *datar* and on seeing them Rohit Kumar tried to ran away but was chased by Yogesh Kumar and aforesaid unidentified person and they intercepted Rohit Kumar in the fields of Ram Lubhaya and then Yogesh

Kumar gave repeated blows of *datar* to Rohit Kumar and in the meantime complainant also reached there and raised alarm on which Yogesh and his accomplice fled away from there and Rohit was taken to hospital where he died. During investigation complainant made supplementary statement wherein she stated that the aforesaid unidentified accomplice was petitioner Lakhbir Singh. Subsequently, petitioner was arrested on 25.07.2021.

3. The counsel for the petitioner submits that petitioner is falsely implicated in the present case and was not named in the FIR. That petitioner is in custody for the last more than 02 years and 08 months and is having no criminal history. It is further submitted that no injury is attributed to the petitioner and even during investigation no weapon was recovered at the instance of the petitioner. The counsel for the petitioner further submits that material witness namely complainant Neetu Bala is already examined but it will take time for the trial to conclude and in the given circumstances no purpose will be served to prolong the judicial custody of the petitioner.

4. The present petition is resisted by the State counsel who submits that petitioner actively participated in the occurrence which resulted in death of Rohit Kumar. It is further submitted that trial is going on. However, the State counsel has not disputed that the petitioner who is having no criminal antecedents is in custody for the last more than 02 years and 08 months and further main witness Neetu Bala stands examined during trial.

5. I have considered the submissions made by counsel for the parties.

6. Admittedly, the petitioner was not named in the FIR and later on nominated as accused on the basis of supplementary statement of

complainant Neetu Bala. During investigation petitioner was arrested and is in custody for the last more than 02 years and 08 months and is having no criminal history and during investigation no incriminating article was recovered from the petitioner. Even as per the allegations appearing in the FIR coupled with the deposition of PW1 Neetu Bala, it is apparent that main allegations were made against co-accused Yogesh Kumar who gave fatal blows of *datar* on the person of deceased Rohit Kumar at the time of occurrence. It is not clear as to whether at the time of occurrence the petitioner was armed with any weapon or was empty handed. The material witness i.e. complainant/ eye witness is already examined. So, there is no apprehension that if released on bail the petitioner is going to influence her in any manner. It is also a moot point to be ascertained by the trial Court as to whether liability of the petitioner could be fastened in the present case with aid of Section 34 IPC as no specific injury is attributed to the petitioner. However, it will take time for the trial to conclude. In the given circumstances, no purpose will be served by keeping the petitioner behind the bars for any longer period.

7. In light of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

02.04.2024

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(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No