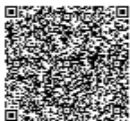


2024:PHHC:099752



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-36780 of 2024
Date of Decision: 02.08.2024

Amarjit Kaur ...Petitioner
Versus
State of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 483(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to set-aside the impugned order dated 19.07.2024 passed by the Court of Sessions Judge, Gurdaspur, whereby, the concession of regular bail was granted to respondent No. 2 in a case arising out of the FIR No. 33 dated 12.06.2024 under Sections 302, 452, 148 and 149 IPC, Police Station Bhaini Mian Khan, District Gurdaspur.
2. Learned counsel for the petitioner contends that in the present case, the FIR was registered against respondent No. 2 and others on the basis of the statement made by Amarjit Kaur, the present petitioner and the same has been reproduced below:-

“Statement of Amarjit Kaur wife of late Baldev Singh resident of village Chak Sharif, PS Bhaini Mian Khan, aged about 60 years, phone No.98550-67454.

Stated that I am a resident of the above said address and do household work. I have three children. Elder two are daughters namely Rajwinder Kaur and Gurwinder Kaur who are married and both of them are living abroad. My younger son Gurjit Singh is aged about 34 years and he was living in Portugal. On 17.05.2024, he had come to his village Chak Sharif. My Jeth's son Gurpreet Singh @ Rinku son of late Sukhdev Singh is living in my neighbourhood, who has carved out a water course from our land. Many times, we had asked him to demolish the water course but he does not demolish it. On 11.06.2024, I and my son Gurjit Singh went to our land. At about 5 PM, Gurpreet Singh @ Rinku also came there. Upon this, I and my son asked him to remove the water course from our land but he replied that I will not demolish it and today I will teach you a lesson for this. On hearing this, I and my son Gurjit Singh returned home. After some time, my Jethani Joginder Kaur wife of late Bhajan Singh also came to my house. I and my Jethani Joginder Kaur were talking in the courtyard of the house. At about 8.45 PM, noise was heard in the street. In the meantime, my son Gurjit Singh immediately came running to the house. Electric bulbs were glowing in the street as well as in the courtyard. Gurpreet Singh @ Rinku armed with kirch, Manjeet Kaur wife of Gurpreet Singh @ Rinku armed with base bat, Surinder Kaur wife of Sukhdev Singh empty handed, Navdeep Kaur @ Ruhi daughter of Gurpreet Singh @ Rinku armed with stick, Navreet Kaur

@ Nancy daughter of Gurpreet Singh @ Rinku armed with stick chased my son while raising lalkaras and entered my house. In the meantime, Surinder Kaur raised a lalkara that, "Do not spare Gurjit today; teach him a lesson for asking us to demolish the water course." Then, Gurpreet Singh @ Rinku gave a kirch blow to my son, upon which he raised his right arm to save himself and the blow hit on his right wrist. Then, Manjeet Kaur, Navdeep Kaur and Navreet Kaur caught hold of my son from arms while Gurpreet Singh @ Rinku gave consecutive kirch blows to my son which hit on the left side of his chest, under the neck on the chest, left side of abdomen near navel, on the left side of chest above nipple, right side of chest above nipple and right bicep right side of abdomen. My son fell on the ground drenched in blood. I and my Jethani Joginder Kaur raised cries, upon which the above said assailants fled away from the spot with their respective weapons. This entire occurrence was witnessed by me and my Jethani Joginder Kaur. In the meantime, many people from the village gathered. I arranged for a conveyance and took my injured son for treatment to civil hospital, Gurdaspur, where the doctor declared my son dead. My son Gurjit Singh has been murdered by Gurpreet Singh @ Rinku, Manjeet Kaur, Surinder Kaur, Navdeep Kaur and Navreet Kaur together. I have kept the dead body of my son in the dead house of Civil Hospital, Gurdaspur. I am claimant. Legal action be taken against the above said. Statement has been got recorded, has been heard, is correct. RTI Amarjit Kaur. Sd/ Vazir Singh son of Mohinder Singh resident of Kahnuwan”

2. Learned counsel for the petitioner contends that in the present case, the respondent No. 2 had exhorted all other accused to teach a lesson to Gurjit Singh, since deceased, and asked her co-accused not to spare him on that day. On her exhortation, Gurpreet Singh @ Rinku, main accused, gave blows with *Kirch* on the person of Gurjit Singh whereas Manjeet Kaur, Navdeep Kaur and Navreet Kaur had caught hold of arms of Gurjit Singh. As per the postmortem report (Annexure P-2), Gurjit Singh has suffered 13 injuries on his person and he had died on account of injuries to the vital organs. The respondent No. 2 was arrested on 12.06.2024 and was sent to judicial custody. Thereafter, she applied for bail and vide the impugned order dated 19.07.2024 (Annexure P-4), she was wrongly ordered to be released on regular bail by the Court of Sessions Judge, Gurdaspur.

3. Learned counsel for the petitioner vehemently argues that the respondent No. 2 was a member of unlawful assembly, which had trespassed in their house and had committed the murder of Gurjit Singh. All the accused had entered the house with premeditation and it was respondent No. 2, who had exhorted all the accused to kill Gurjit Singh. Further, all the witnesses in the present case belonged to the same village, consequently, respondent No. 2 is in a position to influence the witnesses of the prosecution. Apart from that, it was wrongly argued that the respondent No. 2 was a lady aged about 70 years and was suffering from heart problems. Whereas the respondent No. 2 is only aged more than 64 years and was not suffering from any

serious heart ailment and has been wrongly granted the concession of bail by the Sessions Judge, Gurdaspur. Learned counsel for the petitioner has placed reliance on the law laid down by the Hon'ble Supreme Court in the matter of *Ajwar Vs. Waseem and another and connected cases*, 2024(3) R.C.R. (Criminal) 185 and 2024 AIR (Supreme Court) 2885 and *Kamla Devi and State of Rajasthan and another and connected case*, 2022(2) R.C.R. (Criminal) 328 and 2022 AIR (Supreme Court) 1524 and contended that while granting the concession of bail, the trial Court had completely overlooked the relevant consideration for grant of bail and the impugned order suffers from the vice of non application of mind, render it illegal.

4. I have heard learned counsel for the petitioner and perused the record in the present case.

5. In the present case, the FIR was initially registered on the basis of the statement made by Amarjit Kaur, the present petitioner. As per the complainant herself, only one accused, namely, Gurpreet Singh @ Rinku, was armed with *kirch*. Further, both the sides are neighbourers and a dispute had taken place between the parties only on the minor issue of carving out a water course from their land. In fact, both the sides are rustic villagers and the occurrence had taken place at the spur of moment. Apart from that, it is also an admitted fact that at the time of occurrence, the present respondent No.2, who is an old lady was empty handed and the only role attributed to her is that she had allegedly exhorted all other accused that Gurjit Singh be

not spared for asking them to dismantle the water course. Even, the trial Court had noticed the fact that the respondent No.2 was empty handed, but noted that no specific injury or role has been attributed to the respondent No.2 and Gurjit Singh died on account of injuries caused by Gurpreet Singh @ Rinku. Even, the main accused Gurpreet Singh @ Rinku, and his wife Manjeet Kaur, who had allegedly caused serious injuries to Gurjit Singh have already been arrested. Further, the similarly placed co-accused Navdeep Kaur and Navreet Kaur have been declared innocent by the police and both of them were juveniles. This Court can safely conclude that the bail has been granted by the trial Court by taking into consideration relevant parameters for grant of concession of bail. Further, in the present case, even as per the petitioner, the present petitioner has argued that the respondent No. 2 is aged more than 64 years and her age has been wrongly mentioned as 70 years by the trial Court. However, there is no force in the said argument because even as per the stand taken by the petitioner, the respondent No. 2 is a senior citizen and her bail petition deserved sympathetic consideration.

6. Apart from that, there is no documentary evidence on record to show that the respondent No. 2 is not suffering from heart ailment; rather it is apparent from the impugned order that there was material before the trial Court, which showed that the respondent No. 2 was suffering from heart ailment since long. Learned counsel for the petitioner has placed reliance on the law laid down by the

Ajwar Vs. Waseem and another and connected cases, 2024(3) R.C.R. (Criminal) 185 and 2024 AIR (Supreme Court) 2885 and Kamla Devi and State of Rajasthan and another and connected case, 2022(2) R.C.R. (Criminal) 328 and 2022 AIR (Supreme Court) 1524. There is no dispute regarding the law laid down by the Hon’ble Supreme Court in the said judgment but both the judgments are not applicable to the facts of the present case.

7. Thus, finding no merits, the present petition is dismissed.

02.08.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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