

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42331-2024
Reserved on: 08.11.2024
Pronounced on: 14.11.2024

Pargat Singh @ Kala ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sherry K. Singla, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
165	22.05.2023	Kalanwali, District Sirsa	147, 148, 149, 323, 341, 506, 302, 34 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC r/w 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:-

“1. That brief facts of the case are that case FIR No.165, dated 22.05.2023, under sections 147/148/149/323/341/506 IPC (sections 147/148/149 IPC were deleted and sections 302/34 IPC were added in the case during investigation), PS Kalanwali, District Sirsa/Annexure P-1 was registered on the statement of complainant Manpreet Singh @ Mani son of Gurcharan Singh, resident Dharampura, District Sirsa, against (1) Pargat Singh @ Kala son of Nachhatar Singh, resident of Dharampura, District Sirsa (present petitioners/accused), (2) Karan Singh son of Dara Singh, resident of Kewal and (3) Jaswinder Singh @ Gulli son of Jeet Singh, resident of Pakka Shahidan by name and 5 unknown. English translation of extract of FIR/Annexure P-1 is as under:

"Stated that I am resident of abovesaid address and labourer. We are two brothers and one sister. Name of my sister is Gurpreet Kaur, who is elder to us. I am the middle one among my sister and brother. Name of my younger brother is Hem Singh, who working in JIO Care. About two years back, a quarrel was arise between my brother Hem Singh and Pragat Singh Kala Singh son of Nachhatar Singh, resident of Dharampura on minor issue, which was compromised in Panchayat. After that Pragat Singh @ Kala started having grudge against my younger brother Hem Singh. Whenever, Pragat Singh @ Kala met my brother Hem Singh, he used to say brother Hem Singh that he would kill him. On 21.05.2023 at about 11:00AM, I and my younger brother Hem Singh were going to Kalanwall for some work. When we had just reached between village Dharampura and village Kewal, Pragat Singh @ Kala son of Nachhatar Singh, resident of Dharampura, Karan Singh son of Dara Singh, resident of Kewal and Jaswinder Singh @ Gulli son of Jeet Singh, resident of Pakka Shahidan and 4/5 other persons, whom I do not know, came on three-four motorcycles and blocked our way and caught my brother Hem Singh. At that time Pragat Singh @ Kala son of Nachhatar Singh, resident of Dharampura hit Gandasa, on the head of my brother Hem Singh having in his hand and at the same time Jaswinder Singh @ Gulli son of Jeet Singh, resident of Pakka Shahida hit iron rod on stomach in intestines of my brother Hem Singh having in his hand. Thereafter, Karan Singh and 4/5 other persons suddenly attacked on my brother with sticks having in their hands. I got frightened and went a little distance away and shouted "Maar Diya Maar Diya", then the nearby people came to the spot and they said catch them, catch them, then Pragat @ Kala, Karna Singh, Jaswinder @ Gulli and 4/5 other persons fled from the spot on their motorcycles. Then I and the nearby people arranged some other vehicle and admitted my brother to CHC Kalanwali and the doctor referred him to GH Sirsa, after giving first aid. Then I got my brother treated in GH Sirsa, the doctor referred my brother to Agroha Medical. After consulting with the family, I got admitted my brother in City Health Care, my brother is admitted in the ICU and cannot able to speak. Today I have got recorded my statement to you, read it and understood, which is correct. Legal action be taken against all of them. I have got recorded my statement in front of my aunt's (Bua) son Bittu Singh son of Naib Singh, resident of Bahman Diwana District Bathinda, now resident of Dharampura."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The petitioner's counsel has made various arguments, which are mentioned in detail in the bail petition and read as follows:-

“6. That the petitioner has been falsely implicated in the present case as initially, the case was registered under Sections 323, 341, 506, 147, 148, 149 IPC and later on, due to death of Hem Singh offence under Section 302 IPC was added later on. It is relevant to mention here that the deceased Hem Singh was having only two injuries on his person and as per the story of the complainant, Hem Singh received number of injuries from the accused persons, which therefore cast doubt on the story of the prosecution.

7. That it is also a matter of record that the investigation in the present case has been completed and thereafter, the final report under Section 173 Cr.P.C has been presented, whereby the offence under Sections 147, 148 and 149 IPC has been deleted by the police during investigation as the story of the complainant was found to be false and the challan was presented under Sections 323, 341, 506, 302 and 34 IPC. It is also stated here that during the course of investigation, it was found that the story of the prosecution with regard to involvement of Karan Singh son of Dara Singh as well as 4/5 unknown persons was found to be false and accordingly, the offence under Sections 147, 148, 149 IPC was deleted by the police. However, Pardeep Singh @Ganja son of Gurjeet Singh was also nominated as an accused and accordingly, the petitioner alongwith two other accused persons are facing prosecution in the present case.

8. That another important aspect of the case which is to be considered by this Hon'ble Court is that the complainant Manpreet @ Mani, Lovepreet and Dev Singh were examined as PW2, PW3 and PW4 before the Hon'ble Court and they have not supported the version of the prosecution and they were declared to be hostile by the public prosecutor and duly cross examined but nothing incriminate has come on file against the petitioner. Thus, the perusal of the testimony of the prosecution witnesses clearly proves that the petitioner has been falsely been implicated in the present case and even the testimony of the PW-1 Doctor Baljinder Singh would also show that the possibility of the injuries suffered by the deceased Hem Singh from the fall of the motorcycle cannot be ruled out. The testimony of PW1 Doctor Baljinder Singh, MO is also annexed herewith as Annexure P-3. The testimony of PW-2 Manpreet @ Mani is attached as Annexure P-4 and the testimony of PW-3 Dev Singh son of Bhola Singh is Annexure P-5 and the testimony of Lovepreet Singh son of Dev Singh (PW-4) is also annexed herewith as Annexure P-6.

9. That the chronology of the above mentioned facts would clearly show that the chances of false implication of the petitioner in the present case cannot be ruled out, especially in the light of the statement of PW2, PW3 and PW4, who were the complaining and the eye witness and have not supported the story of the prosecution. The petitioner is in custody since 29.05.2023 and even otherwise, the case is now fixed for prosecution evidence

and the charges have already been framed against the petitioner as well as other accused persons and now, the case is pending for prosecution evidence for dated 14.10.2024.”

6. The State’s counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

“15. During investigation, petitioner/accused Pargat Singh @ Kala suffered disclosure statement and got demarcated the place of occurrence and from where they had picked up weapons used in commission of crime and petitioner/accused got recovered one Gandasa used in commission of crime.”

8. There is sufficient evidence of motive, continuous intimidation, follow-up, and discovery of a weapon of offense based on the petitioner’s disclosure statement. Even if some PWs have turned hostile, it would not imply that a weapon of offense was discovered at the petitioner’s evidence. The other arguments are the subject matter of appraisal by the trial court and not at the time of bail.

9. A perusal of the bail petition and the documents attached prima facie points towards the petitioner’s involvement and does not make out a case for bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

10. The petitioner’s custody of around one year and six months cannot be termed prolonged, given the minimum sentence prescribed for the offense, which is imprisonment for life.

11. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

12. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

14.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.