

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-45747-2023

Date of Decision: 25.1.2024

Rahul

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Ms. Divya Gulati, Advocate
for the petitioner.

Mr. J.S.Bhandari, AAG, Punjab

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.229 dated 31.8.2020 registered for the offences punishable under Sections 302, 148, 149, 323, 324, 34 IPC at Police Station Gate Hakima, District Amritsar.

2. The allegations in nutshell are that on 29.8.2020, co-accused Rambo and Gaurav @ Gola along with 10-12 persons attacked Ravi Kumar and Sarwan Kumar and caused injuries to them with various weapons and Ravi Kumar died on account of injuries caused to him at the time of the occurrence by the aforesaid persons. During investigation, name of the present petitioner surfaced and there are allegations that at the time of the occurrence, he raised *Lalkara* and exhorted other accused persons to cause injuries to Ravi Kumar and Sarwan Kumar. The petitioner was arrested in this case and as per custody certificate, he is in custody since 8.10.2022.

3. Counsel for the petitioner submits that in the FIR, only Rambo and Gaurav were specifically named as accused persons along with 10-12 other unknown boys. It is further submitted that the petitioner is in custody for the last more than 1 year and 3 months and the trial is not progressing ahead and during investigation, no incriminating article was recovered at the instance of the petitioner and that it will take considerable time for the trial to conclude and that earlier, the petitioner was facing one another criminal case wherein he was acquitted. Counsel for the petitioner further submits that no purpose is going to be served by prolonging the judicial custody of the petitioner. So, prayer is made that the petitioner be released on regular bail.

4. Present petition is resisted by the State counsel who on instructions from ASI Harjit Singh submits that during investigation, identity of one of the unknown boy was established and he was found to be petitioner and there are allegations against the petitioner that at the time of the occurrence, he raised *lalkara* and thereafter, co-accused persons caused injuries to Ravi Kumar and Sarwan Kumar which resulted in death of Ravi Kumar. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 1 year and 3 months and no weapon was recovered from his possession during the investigation of the case and that now the trial has commenced and the prosecution has examined 6 witnesses out of total 21 witnesses. State counsel has failed to refute the fact that the petitioner is acquitted in another case faced by him.

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

6. Admittedly, the petitioner was not named in the FIR which was

registered against co-accused Rambo and Gaurav. The name of the petitioner surfaced later on and he was arrested and is in custody for the last more than 1 year and 3 months and no incriminating article was recovered from his possession during investigation of the case. Only allegations against the petitioner are that at the time of the occurrence, he raised *lalkara* and exhorted other accused persons to cause injuries to Ravi Kumar and Sarwan Kumar as has been admitted by the State counsel. After completion of investigation, challan has been presented and the trial has commenced but the prosecution is able to examine only 6 witnesses out of total 21 witnesses till date and thus, it will take considerable time for the trial to conclude. It appears that no fatal injury has been attributed to the petitioner. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

7. In view 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 regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

January 25, 2024
Paritosh Kumar

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