

281 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45864-2023

Decided on:-06.02.2024

Balwinder Singh

....Petitioner..

vs.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Anshumaan Dalal, Advocate,
for the petitioner.

Mr. G.S. Dhillon, AAG, Punjab.

Mr. Vipin Mahajan, Advocate,
for the complainant.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, prayer has been made for grant of regular bail pending trial, in case bearing FIR No.86, dated 19.11.2019 registered under Sections 302, 506, 148, 149, 120-B IPC and Section 25, 27 of the Arms Act, 1959, at Police Station Kotli Surat Mallian, Police District Batala, District Gurdaspur, Punjab.

2. Learned counsel for the petitioner submits that the petitioner has been implicated with the allegations of having given a *datar* blow on the left hand of the deceased.

3. The prayer made on behalf of the petitioner has been vehemently opposed at the instance of learned State counsel assisted by learned counsel representing the complainant while submitting that there is continuous threat

to the life and liberty of the complainant as well as the other two material witnesses, namely, Lakhwinder Singh and Ranjodh Singh and thus, concession of bail if granted in favour of the petitioner would be a danger to their life.

He also submits that repeated representations in this regard have been made at the instance of complainant as well as the other witness, namely, Lakhwinder Singh, who happens to be the brother of the deceased and one of the eye-witness. Apprehending threats at the hands of accused persons, even 04 police personnels of Punjab Police have already been assigned for providing 24 hours security to the complainant, thus, the petitioner does not deserve the concession of bail.

4. I have heard learned counsel for the parties and gone through the paper book and find substance in the submissions made on behalf of the petitioner.

5. In the present case, the total custody of the petitioner is now of 04 years & 16 days. The petitioner is not involved in any other case. The investigation in the present case already stands concluded with the filing of challan, followed by framing of charges and even the complainant namely, Sandeep Singh, who happened to be the son of the deceased already stands examined and has also been provided adequate security. Moreover, the injury attributed to the petitioner is on the non-vital part of the deceased.

6. Keeping in view the fact that total custody period of the petitioner is 04 years & 16 days and the trial which commence with the framing of charges way-back on 17.07.2021 has not led any headway as only 03 of the prosecution witnesses out of 35 have been examined so far,

without there being any attribution to the petitioner for causing delay in trial, thus, I do not find any justification to extend the incarceration of the petitioner. However, considering the fact that two of the material witnesses, namely, Lakhwinder Singh and Ranjodh Singh are yet to be examined by the prosecution, the Senior Superintendent of Police, Police District Batala, District Gurdaspur is requested to provide adequate security to the aforementioned two witnesses for the purpose of providing protection to their life and liberty and for enabling them to depose in Court without fear or favour.

It may be noted here that learned counsel for the petitioner also submits that as per his own volition, the petitioner would not enter District Gurdaspur till the examination of the aforementioned two material witnesses namely, Lakhwinder Singh and Ranjodh Singh except for the hearing fixed in the trial. Moreover, on earlier occasion, on account of illness of his wife, the petitioner was granted interim bail for a period of one month against which he surrendered on time and nothing has been pointed out by the investigating agency or the complainant that the petitioner has misused the concession of interim bail.

6. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate.

7. It is made clear that this order may not be construed as an expression of opinion on the merits of the case.

06.02.2024
sonika

(HARKESH MANUJA)
JUDGE

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