



CRM-M-44787 of 2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(232)

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Date of Decision: 27.11.2024

Jaimal SinghPetitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Himmat Singh Sidhu, Advocate, for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J.(ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagrik Suraksha Sanhita, 2013, in case FIR No.033 dated 13.04.2024 under Sections 302/34 of the IPC, 1860 registered at Police Station Ghagga, District Patiala.
2. Learned counsel for the petitioner submits that the petitioner, an 80 years old man, has been in custody since 11.05.2024, in connection with the alleged murder of his granddaughter's paramour (hereinafter referred to as the deceased). It has been further submitted that petitioner has been falsely implicated in the present case; as per allegations levelled in the FIR (Annexure P-1) which was registered at the instance of father of the deceased, the deceased was romantically involved with Kuldeep Kaur i.e. the granddaughter of the petitioner. On the intervening night of 11th-12th of April, 2024, the deceased reportedly went to meet Kuldeep Kaur at her house, where, the

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petitioner and his grandson (brother of Kuldeep Kaur) also resided. Allegedly, while the deceased was inside the house, the petitioner and his grandson awoke, apprehended the deceased and inflicted multiple blows on him using a bamboo stick with the intention to kill. However, the deceased managed to escape and returned to his maternal grandfather's house. Upon his return, he disclosed the incident to his maternal grandfather, stating that the petitioner and his grandson had assaulted him. Thereafter the deceased went off to sleep but was found unconscious the next morning. He was taken to the hospital, where he was then declared dead.

3. Learned counsel for the petitioner has further submitted that, while fleeing from the house of the petitioner, as per the case of the prosecution itself the deceased obtained First Aid treatment for the injuries allegedly inflicted upon him by the petitioner and his grandson. Curiously, however, the investigating agency found the grandson of the petitioner innocent and did not *challan* him and instead proceeded only against the petitioner, who is an elderly man.

4. Learned counsel for the petitioner has argued that it is highly improbable for an 80 year old man to inflict continuous blows with a bamboo stick on a young man to the extent alleged, particularly when as per the case of the prosecution projected in the *challan*, it was only the petitioner who had inflicted injuries upon the person of the deceased. It has also been contended that, assuming for the sake of arguments, though not conceded, that petitioner did inflict multiple blows, it defies logic that the deceased, a young man, could not have defended himself against such an attack by an 80 year old man.

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5. It has still further been argued that, even if the allegations for the sake of arguments are presumed to be true, at best, though not conceded, it may be a case of sudden and grave provocation, as the petitioner found a young man inside his house in the middle of the night with his unmarried granddaughter, a situation that could have compelled him to act in such a manner.

6. Additionally, it has been asserted by the learned counsel that the case of the prosecution is not that the petitioner died on the spot due to the alleged assault. Rather, the deceased succumbed to his injuries much later. Learned counsel for the petitioner has also emphasised that the complainant being the father of the deceased, was not an eye-witness to the crime in question. The allegations in the FIR, therefore are based on hearsay and their veracity remains subject to trial. Moreover, aside from the FIR, no cogent material or evidence has been produced by the prosecution in the *challan*, to substantiate the involvement of the petitioner in the alleged crime.

7. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed the age of the petitioner or even his custody period. It has also been admitted on instructions that the investigation in the present case is complete and the *challan* has already been presented before the trial Court.

8. When queried by this Court about any additional material evidence linking the petitioner to the alleged crime, the learned State counsel on instructions has submitted that the complainant was informed by the deceased about the attack by both the petitioner and his grandson, leading to

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However, learned State counsel has conceded that despite allegations in the FIR against the grandson of the petitioner also, he was exonerated during investigation and not *challaned*.

9. I have heard learned counsel for the parties and perused the material placed on record including the allegation leveled in the FIR which stands reflected as under:

“FIR No. 33 dated 13.04.2024 under section 302,34 of IPC, 1860, Registered at Police Station Ghagga, District Patiala.

*This time one statement from Prithi Singh S/o Swarup Singh R/o Sodhiwala Ugoke, Police Station Ghagga, District Patiala, aged about 56 years, Mobile No. 9478168086 has been received by SI Darshan Singh, SHO, Police Station Ghagga by hand from PHG Gurtej Singh 30306 in the police station for registration of FRI against **Jaimal Singh** S/o Chhotu Ram and Gurjant Singh S/o Jarnail Singh, R/o Sadharanpur, Police Station Ghagga, District Patiala for offences under Section 302, 34 IPC, the contents of the same are as under:-Stated that I am resident of above noted address and I am working as labourer. I have four children i.e. two sons and two daughters. Elder son Lal Singh is in Indian Army, younger to him daughter Paramjit Kaur, younger to her daughter Seema Rani and all are married and my youngest son Gurbakhash Singh who is unmarried and two months ago, he went to Haryana for the season of Wheat on the combine of Baldev Singh son of Churia Ram resident of Sodhiwala. My son Gurbakhash Singh was having relations with Kuldeep Kaur daughter of Jarnail Singh resident of Sadharanpur. I make my son understood to restrain him from said relations. I along with Jarnail Singh Sarpanch and Sardara Singh Ex-Sarpanch of village Sadharanpur went to the house of Jarnail Singh father of said girl in their house in village Sadharanpur. During intervening night to 11/12.04.2024 at around 11.00 PM, my son went to meet said girl on the motorcycle of someone, where on hearing the noise, **Jaimal Singh** son of Chhotu Ram (grandfather of said girl) and her brother Gurjant Singh son of Jarnail Singh woke up, Gurjant Singh brother of girl has hugged*



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*him/hold of him and her grandfather has given blow of Dang on his head and they also caused injuries with the aim to kill my son Gurbakhash Singh, somehow my son Gurbakhash Singh has escaped himself from them and he along with his motorcycle reached to his Grandfather/Nana Joginder Singh Chamkaura road Kakkar Farm, Tohana District Fatehabad Haryana who is working at the motor of Dr. Avishek Kakkar and is residing at Kakkar Farm Fatehabad but during night hours at 1.00 AM and on the way he has got first aid for the injuries of his head from some private doctor and when Joginder Singh asked him about the injuries, then he informed his Nana Ji about the said incident, then my Father-in-law Joginder Singh has informed me about it. Thereafter my son slept in her maternal house. At morning time my not woke up then my Father-in-law Joginder Singh has tried to get up my son Gurbakhash Singh then my son was in unconscious condition, then my Father-in-law Joginder Singh has arranged a private vehicle and took him to Sangam Hospital, Tohana and we also reached there and doctor has checked my son in the car and declared him as dead. Thereafter we arranged private ambulance and kept the dead body of my son Gurbakhash Singh in Mortuary of Civil Hospital Samana and we were coming to inform you, then you met us along with police party. My son Gurbakhash Singh has died due to the injuries caused by **Jaimal Singh** son of Chhotu Ram and Gurjant Singh son of Jarnail Singh residents of Sadharanpur, Police Station Ghagga District Patiala, legal action be taken against them. I have got recorded my statement to you and heard the same which is correct. XXX”*

10. The petitioner who is admittedly an 80 year old man has been in custody since 11.05.2024. The investigation in the present case is complete as *challan* stands presented. The investigating agency has not collected any additional material beyond the statement of the complainant, which is based on the purported disclosure made by the deceased. The case of the prosecution, therefore, hinges primarily on circumstantial and hearsay evidence, which would be tested during the course of trial when both the



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parties lead their respective evidence. In the facts and circumstances as enumerated hereinabove, particularly in the light of the advanced age of the petitioner and nature of allegations levelled, this Court deems it fit to extend the concession of bail to the petitioner.

11. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

12. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

27.11.2024
anil

(MANJARI NEHRU KAUL)
JUDGE

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