

CRM-M-54820-2023

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(228) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-54820-2023
Date of Decision: 24.01.2024

KARNAIL SINGH @ KAILI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.S. Sekhon, Advocate
for the petitioner.

Ms. Ramta Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail in case bearing FIR No.03 dated 05.01.2022 (Annexure P-1) registered under Sections 302, 148, 149 of the Indian Penal Code, 1860 (Sections 201 and 212 IPC, 1860 added later on) at Police Station Arniwala, District Fazilka.

2. The present FIR came to be registered at the instance of Gurpreet Singh son of Dogar Singh who stated that they were three brothers. The Eldest was Rashpal Singh and the other brother was Sarabjit Singh @ Sabhi. On 04.01.2022, he and his brother Sarabjit Singh @ Sabhi went to Jalalabad to fix the marriage of Sunita Rani daughter of their aunt (*Bua*) Raj Rani. While coming back on a motorcycle which was being driven by one Sonu Singh son of Amar Singh, his brother Sarabjit Singh @ Sabhi was sitting in the middle while he was sitting on the back seat. Another motorcycle was behind them which was being driven by Buta Singh and Raj Rani was a

pillion rider. At about 05.30 PM when they reached in the area of village Ghattian Wali Jattan, then Jaskaran Singh alias Baghi, Satnam Singh alias Satta, Sukhpal Singh @ Palu, Karan Singh @ Bhundi along with 4-5 unknown persons were already present. On seeing their motorcycle, Jaskaran Singh @ Baghi raised a *Lalkara* to catch hold of Sarabjit Singh @ Sabhi. On hearing the said *Lalkara*, Sukhpal Singh alias @ Palu held his brother Sarabjit Singh @ Sabhi from his neck and pulled him from the motorcycle due to which the motorcycle fell on the ground. Satnam Singh @ Satta gave a brick blow on his brother Sarabjit Singh @ Sabhi which hit him on his left cheek, Karan Singh @ Bhundi gave a brick blow to his brother which hit on his left eye and Jaskaran Singh @ Baghi gave a *Kappa* blow which hit on the backside of his head. When he along with his aunt and her sons tried to rescue his brother then the unknown persons caught them and assaulted them by giving fist blows. On raising a hue and cry all the accused ran away from the spot. The motive behind the occurrence was that the deceased had a quarrel with Jaskaran Singh @ Baghi and Sukhpal Singh about two months ago.

Subsequent to the registration of the FIR against the above named persons, the supplementary statement of the complainant was recorded on 24.01.2022 on the basis of which four persons were nominated as accused namely, Karnail Singh @ Kaili (petitioner) son of Dyal Singh, Gurdev Singh @ Doshi son of Mahinder Singh, Kamaljeet Singh @ Babbu son of Jangir Singh and Ravinder Singh @ Ravi @ Babbu son of Sukhdev Singh (granted bail vide order dated 05.12.2022 passed in CRM-M-34122-2022). However, as per the supplementary statement, no injury was attributed to the petitioner.

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3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR but in the supplementary statement of the complainant which was recorded on 24.01.2022 i.e. 19 days of the occurrence. Even in the said statement, no injury has been attributed to the petitioner and therefore his false implication cannot be ruled out. Even otherwise, the petitioner has been in custody since 02.05.2023 and the charges are yet to be framed. Therefore, the Trial of the present case was not likely to be concluded anytime soon and as such the further incarceration of the petitioner is not required and therefore, he be granted the concession of regular bail moreso when his co-accused namely, Ravinder Singh @ Ravi @ Babbu had been granted bail.

4. A reply dated 24.01.2024 by way of an affidavit of Achhru Ram Sharma, PPS, Deputy Superintendent of Police, Sub Division Jalalabad, District Fazilka has been filed on behalf of the respondent No.1-State by the learned State counsel and the same is taken on record. She contends that the petitioner was a part of the unlawful assembly and therefore merely because he did not cause any specific injury to the deceased would not be reason enough to grant him the concession of regular bail. She, however admits that the petitioner has been in custody since 02.05.2023, none of the prosecution witnesses have been examined so far and that Ravinder Singh @ Ravi @ Babbu has been granted bail.

5. I have heard the learned counsel for both the parties.

6. Admittedly, the petitioner is not named in the FIR and as per investigation he is stated to be one amongst the four or five unknown persons referred to in the said FIR. His name has come up for the first time in the

supplementary statement of the complainant recorded on 24.01.2022. Even in the said statement, no specific role has been attributed to the petitioner with respect to causing injuries to the deceased. The culpability of the petitioner with the aid of Sections 148/149 IPC would be a matter of adjudication during the course of the Trial. The petitioner in the present case has been in custody since 02.05.2023 and even the charges have not been framed yet. Therefore, the Trial of the present case is not likely to be concluded in the near future and as such, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Karnail Singh @ Kaili son of Gurdial Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall also appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

24.01.2024

JITESH

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