

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-57616-2023

Date of Decision: 27.2.2024

Balwinder Yadav

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ashish Soi, Advocate
for the petitioner.

Mr. Baljinder Singh, DAG, 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.179 dated 6.12.2022 registered for the offences punishable under Sections 302, 34, 120-B IPC at Police Station PAU, District Ludhiana.

2. As per the allegations appearing on record, deceased-Vicky was working as a waiter with the present petitioner and the petitioner withheld his wages worth ₹5500/- and the deceased time and again was asking the petitioner to pay his wages and on this account, altercation also took place between the petitioner and the deceased; that on 5.12.2022 at about 9:30 p.m., Vicky was present in his house along with complainant-Vijay Singh who is his real brother. At about 9:45 p.m., both of them went outside for evening walk and when they were passing through Street No.3, co-accused Mani Sandhu, Vikas and Krishna intercepted them and attacked Vicky. Vikas and Krishna caught hold of Vicky and Mani Sandhu gave *khanjar*

blow in the back of Vicky who fell on the ground and then Vikas and Krishna gave him kick and fist blows and when the complainant tried to intervene, he was also attacked by Mani Sandhu with *khanjar* which hit on the right leg of the complainant. Thereafter, Mani Sandhu, Vikas and Krishna left the spot; that later on, Vicky died. Said murder was planned by the present petitioner who conspired with the aforesaid 3 co-accused to kill Vicky.

3. During the investigation, the petitioner was arrested in the present case.

4. Counsel for the petitioner submits that the petitioner was falsely implicated in the present case and was having no enmity with deceased and that even as per allegations in the FIR, at the time of alleged occurrence, the petitioner was not present at the spot. He further submits that this fact was also admitted by the complainant while appearing in the witness box as PW2 during the trial and copy of the said deposition is available on record. Counsel for the petitioner further submits that it will take considerable time for the trial to conclude. So, prayer is made that the petitioner be released on bail.

5. Present petition is resisted by the State counsel who submits that the petitioner was having enmity with the deceased and the petitioner was the mastermind behind the entire occurrence and the trial is going on. It is further submitted that the petitioner is in custody for the last more than 1 year and 2 months and is having no criminal antecedents.

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

7. From the perusal of FIR, it is apparent that at the time of the occurrence on 5.12.2022 which resulted in the death of Vicky, the petitioner was not present at the spot. Complainant-Vijay, while appearing in the witness box as PW2, also admitted this fact that at the time of the occurrence, the petitioner was not present at the spot. The allegations against the petitioner are that there was dispute between the petitioner and the deceased with regard to wages of the deceased and that the petitioner hatched conspiracy with other 3 accused to kill Vicky and that the murder was committed in pursuance of the said conspiracy. Complicity of the petitioner being conspirator will be unfolded during the trial and adjudicated at the time of final disposal of the case.

8. As per custody certificate, the petitioner is behind the bars for the last more than 1 year and 2 months and is having no criminal history and it will take considerable time for the trial to conclude. In the given circumstances, no useful purpose is going to be served by prolonging the judicial custody of the petitioner.

9. 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

February 27, 2024
Paritosh Kumar

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