

215 2024:PHHC:172459

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-60624-2024 (O&M)

Date of decision: 17.12.2024

BALWANT KUMAR

....PETITIONER

Versus

STATE OF PUNJAB

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Babneet Singh, Advocate
 for the petitioner.

Mr. J.S. Rattu, Punjab.

SANDEEP MOUDGIL, J.

1. **Relief sought:**

Petitioner has prayed for grant of regular bail to him in the case arising out of FIR No.162 dated 19.06.2023, Annexure P-1, under Section 302, 148, 149 IPC and Section 323 IPC added later on registered at Police Station Sahnewal, Ludhiana.

2. **Prosecution case:**

FIR has been registered on the statmenet of Gautam Prasad son of Mussai resident of village Bella Police Station Biti, District Ambedkar Nagar, Uttar Pradesh, presently residing at C/o Singla Da Vehra, Street No.2, Makkar Colony, Giaspura, Police Station Sahnewal, Ludhiana, aged about 45 years, who had stated that I,

alongwith my family, resident at the above said address. I work at Kangaroo Factory Sherpur. I have 4 children, 2 boys and 2 girls. Boih girls are major, younger to girls I have 2 boys namely Ansh Kumar alias Lallu and youngest Anshuman Kumar. My son Ansh Kumar alias Lallu was recently granted bail from Ludhiana jail, 1 and half month ago in a case registered at Sahnewal Police Station under Section 307 IPC. My son Ansh Kumar's friend Mohit Kumar son of Jagdish resident of Street No.2 Makkar Colony Giaspura who lives just opposite our house. Today around 1 p.m., I received a call from my youngest son Anshuman Kumar, he said that Ansh Kumar alias Lallu has got a quarrel at Indira Park Indira Colony Giaspura with Balwant Singh and his 8/10 other persons. I immediately left the factory and reached there and saw my son Ansh Kumar alias Lallu was being beaten up by Balwant Singh and 8/10 persons with weapons. I was bare handed that it why I hid myself and saw Balwant Singh alongwith 8/10 unknown persons hit on his head, left arm and other body parts with Dattar which killed him. The above-mentioned persons also gave beatings to Mohit Kumar. When I raised cry then Balwant Singh and 8/10 unknown persons alongwith their weapons left the spot on their motorcycles. Meantime, the crowd was gathered there. I with my other relatives went near my son Ansh Kumar alias Lallu and saw there was a lot of blood loss due to Dattar injuries and one finger was also cut off and got separated from the hand. I saw him alongwith my relatives but he was dead by the time. My youngest son Anshuman had told me that yesterday around 6 p.m. Balwant Singh with some persons came to fight with Ansh Kumar

alias Lallu. The reason is that the Balwant Singh and his accomplices had old grudges/quarrels with Mohit Kumar and Ansh Kumar alias Lallu. I and my youngest son Anshuman can identify the persons. Legal action must be taken against Balwant Singh and other 8/10 unknown persons. I have given the statement in the presence of my son Anshuman Kumar and the same has been read over, it is correct. Sd/- Gautam Prasad.

3. **Contentions:**

On behalf of petitioner:

It is contended on behalf of the petitioner that the petitioner is innocent and has been falsely implicated in the present case, due to old rivalry. There is no allegation against the petitioner to have inflicted the fatal injury on the person of Ansh Kumar (deceased). Further, the version of the complainant, itself, goes on to show that he was not present at the place of occurrence and thereafter it is crystal clear that he did not raise any alarm or tried to intervene when beatings were allegedly given to the deceased. The petitioner, alongwith Sunny Kumar, Aryan Patel and Krishan Kumar (minor) themselves had surrendered before the court of learned Judicial Magistrate Iat Class, Ludhiana, on 22.06.2023 and as such are in custody for more than 1 year and 5 months since then. There is no evidence on record to show that the petitioner gave the fatal datar blow on the head of the deceased. As such, the petitioner is liable to be granted regular bail in the present case.

On behalf of the respondent – State:

It is submitted by the learned State counsel that there are

specific allegations against the petitioner in the FIR and it is the petitioner who, alongwith 8/10 unknown persons, was involved in the occurrence and it is due to the huge number of persons, the complainant could not notice at that spur of moment as to who had inflicted the fatal datar blow because the deceased was surrounded by all those persons, including the petitioner. Challan has already been presented against the petitioner and other accused persons. Moreover, surrender of the petitioner and others goes to show that they admitted their guilt and that's why they surrendered before the learned Court of JMIC, Ludhiana. As such, the petitioner does not deserve the concession of regular bail by this Hon'ble Court. The learned State counsel has produced the Custody Certificate of the petitioner in Court, according to which the petitioner has undergone 1 year 5 months and 19 days' actual sentence as of now. The custody certificate is taken on record.

5. Heard learned counsel for the respective parties.

6. **Analysis:**

On perusal of FIR, it is crystal clear that there is specific allegation against the petitioner that he has formed an unlawful assembly and committed the murder of the son of the complainant who was just 18 years of age. As per postmortem report, there are as many as 18 injuries on the person of deceased and the fatal injury has been attributed to the present petitioner, which shows how brutally the boy of just 18 years was beaten with a clear intention to kill. Moreover, it is also the version of the complainant that one day ago also, the petitioner and his accomplice came to fight with Ansh Kumar (since deceased) which shows that the petitioner and his accomplice have the motive to kill Ansh Kumar (the deceased). Moreover, the

custody period of the petitioner is also very less. In the present case, there is total 20 prosecution witnesses and none has been examined so far which is sufficient for this Court to infer that in case the petitioner be released on regular bail, there is every possibility that he will influence the witnesses.

7. **Conclusion:**

In view of the discussions made hereinabove, keeping in view the intention of the petitioner and gravity of offence, this Court does not find it to be a fit case for grant of regular bail to the petitioner in the present case. Therefore, this petition fails and is hereby ordered to be dismissed.

(SANDEEP MOUDGIL)
JUDGE

17.12.2024

Poonam Negi

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