



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-5809-2025

Date of decision: 10th March, 2025

Nathu Kushwana

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Prateek Pandit, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab and
Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 67 dated 18.04.2023 registered under Sections 302, 148 and 149 of IPC at Police Station Division No.6, Jalandhar.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR had been lodged on the basis of statement recorded by the complainant Shyam Kumar on 18.04.2023, alleging that the victim Ram Kumar was his relative. On the night of 17.04.2023, Ram Kumar and himself had stayed in the house of some other relative at village Mithapur, Jalandhar. In the morning of 18.04.2023, the victim and himself had left their relative's house and were going towards



their respective work places. At about 5:00 AM, they were crossing the area of Income Tax Colony, Jalandhar while talking to each other. When they were intercepted by three persons, who were standing outside a plot. One of them was a female. Those two persons started saying as to why, the complainant and the victim had made comment on the female who was with them. Both of them, denied saying anything but those two persons started quarreling with the complainant and the victim. They dragged the victim inside a plot 5-6 unknown persons were already present there who opened an assault upon the victim. The complainant tried to rescue him but they also tried to assault him and feeling scared, he fled away.

3. The complainant further alleged that those persons extended beatings to the victim and caused his death. Subsequently, he came to know the names of two of them as Laxman and Jagan Nath. On the basis of his statement, the aforementioned FIR was registered. Investigation proceedings were initiated. During investigation, the complainant recorded his supplementary statement taking the names of the present petitioner as well as of co-accused Lambu Gautam, Ghanshyam and Suresh Mallah. The petitioner along with co-accused Laxman Kushwaha and Jagan Nath, was arrested on 18.04.2023. He suffered disclosure statement on the basis of which co-accused Ghanshyam, Lambu Gautam, Suresh Mallah and Nand Ram were also arrested. Investigation stands concluded and the petitioner along with the co-accused is facing trial for commission of the aforementioned offences.

4. It is argued by learned counsel for the petitioner that he was not named in the FIR, he has been falsely implicated on the basis of disclosure



statements of the co-accused and subsequent statement of the complainant. No recovery has been effected from him. Neither any specific role nor any motive has been attributed to him for committing murder of the victim. He is in custody since long. He is only a migrant labourer, who was residing in the plot, where the incident took place. The alleged video recovered from the co-accused Nand Ram, does not establish his role in the crime. Trial is likely to take time. His further incarceration would serve any useful purpose. There are no chances of his intimidating the material witnesses, who already stand examined. Therefore, it is urged that he deserves to be released on bail.

5. Status report has been filed by respondent-State. It is argued by learned Deputy Advocate General, Punjab that there are serious allegations against the petitioner as he extended merciless beatings to the victim with a wooden handle of grape hoe leading to his death. He got the same recovered at his instance. The video provided to the investigating officer shows his complicity in the crime. The trial has commenced and there is nothing to show that there would be any undue delay in conclusion of the same. There are chances of his absconding or intimidating the witnesses, if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

7. The petitioner is alleged to have formed membership of an unlawful assembly and in prosecution thereof, is alleged to have caused homicidal death of the victim by extending beatings to him. As per the allegations, he had assaulted the victim with wooden handle of grape hoe



and also got the same recovered. He was named by the complainant in his supplementary statement as well as by the co-accused in his disclosure statement. The authenticity of the pen drive which is containing the video recording of the alleged incident and which was prepared at the instance of the co-accused Nand Ram is yet to be established. The complainant who has since been examined has duly identified the petitioner as one of the assailants. Keeping in view the gravity of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petitioner does not deserve to be released on bail. Hence, the petition is dismissed.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

10th March, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*