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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12135-2024(O&M)

Date of Decision: 08.01.2025

Harbans Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. P.K. S. Phoolka, Advocate, for the petitioner.

Mr. Malkiat Singh, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No. 134 dated 26.07.2022, under Sections 302, 307, 323, 148, 149, 34 IPC and Sections 25 and 27 of Arms Act, registered at Police Station Talwandi Sabo, District Bathinda (Punjab).

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is in custody for 2 years and 5 months and it is a case where the allegations in the FIR were that the petitioner alongwith some other co-accused had come in the field where the complainant party was irrigating and cultivating and that land was a panchayati land which was taken on lease and there was a dispute with regard to the aforesaid lease and as per the allegations, the other co-accused had fired shot on the deceased namely, Bhuchar Singh who fell on the ground and died and other allegations were pertaining to causing of injuries by blunt and sharp



weapons to the other complainant party who had suffered injuries and only Bhuchar Singh had died because of the firearm injury caused by a licenced weapon as per FIR. He submitted that the petitioner is having clean antecedents and is not involved in any other case. He also submitted that in the present case after the complainant was examined in chief, an application was moved by the prosecution under Section 319 Cr.P.C for summoning of the additional accused and the aforesaid application is still pending and has not been adjudicated upon by the learned trial Court till date and the consequence of the same is that the trial got delayed and the petitioner has now suffered incarceration for about 2 years and 5 months. He submitted that even as per the reply filed by the respondent-State and the statement which was given by the complainant before the learned trial Court at the time of his examination-in-chief, the role attributed to the petitioner was of giving a *gandasi* blow on the head of one of the injured namely, Rajwinder Singh and there is no role attributed to the petitioner pertaining to the death of aforesaid Bhuchar Singh because Bhuchar Singh had died due to firearm shot. He also submitted that the aforesaid Rajwinder Singh is now hale and hearty and considering the alleged role of the petitioner, long custody of the petitioner and also the stage of the trial which is not progressing because of the pendency of the application under Section 319 Cr.P.C, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Malkiat Singh, DAG, Punjab has submitted that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that even as per reply filed by the State, the role attributed to the petitioner is that he was one of the persons who attacked the complainant party but the deceased died due to firearm shot



by a licenced weapon of the other co-accused and not the petitioner. He submitted that so far as the petitioner is concerned, he was a part of the unlawful assembly and there was a recovery of an axe from the petitioner and so far as the petitioner is concerned, he attacked the aforesaid Rajwinder Singh who was injured. He also submitted that the petitioner is not involved in any other case and no prosecution witness has been examined till date except for one complainant who has been examined in chief.

4. I have heard the learned counsels for the parties.

5. The custody of the petitioner is stated to be 2 years and 5 months. The role attributed to the petitioner as so stated by the learned counsel for the parties was that he was part of the unlawful assembly and so far as the deceased is concerned, he died because of firearm shot and also because of injuries caused by a blunt weapon. So far as the alleged role of the petitioner is concerned, he was having a *gandasa* and he had given a blow not on the deceased but on the injured namely, Rajwinder Singh. Be that as it may, the petitioner is stated to be having clean antecedents and he has already faced incarceration for 2 years and 5 months and as per learned counsel for the parties, the trial of the case is not progressing because of the pendency of the application under Section 319 Cr.P.C.

6. Therefore, considering the long custody of the petitioner and also the clean antecedents of the petitioner, this Court is of the considered view that the petitioner deserves the concession of regular bail.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court /Duty Magistrate concerned, if not



required in any other case.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

08.01.2025

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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