



CRM-M-12943-2024

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

218

CRM-M-12943-2024

Date of decision: 10th March, 2025

Lambu Gautam @ Ram Kailash

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Bhupinder Kumar Gupta, 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.

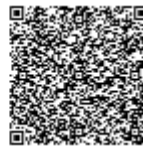
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR had been lodged on the basis of statement recorded by the complainant Shyam Kumar on 18.04.2023 alleging that the victim Ram Kumar was his relative. On the night of 17.04.2023, Ram Kumar and 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 the plot. One of them was a female. Those two male 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 then 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 and co-accused Nathu Kushwaha, Ghanshyam and Suresh Mallah. Accused Laxman Kushwaha, Nathu Kushwaha and Jagan Nath were arrested on 18.04.2023. They were interrogated and suffered disclosure statements admitted their involvement in the crime. They also nominated the accused Nand Ram who too was arrested and suffered disclosure statement.

4. The accused Nand Ram suffered disclosure statement involving the petitioner and the co-accused and also disclosed that while his accomplices were extending beatings to the victim Ram Kumar, he had



made a video of the incident on his mobile phone, which was in his possession. He also got the same recovered. The petitioner was arrested on 19.04.2023. Investigation stands completed and the petitioner along with the co-accused is facing trial for commission of the aforementioned offences.

5. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case, on the basis of disclosure statement of co-accused which cannot be considered to be admissible in evidence and on the basis of some video recording of the incident allegedly made by co-accused Nand Ram on his mobile phone. The said video recording is not part of the challan report and hence, cannot be taken into consideration. He was not named in the FIR. No specific overt act has been attributed to him. He is in custody since 19.04.2023 i.e. for a period of about two years. The video recording allegedly recovered at the instance of the co-accused does not show the petitioner to be committing any such act which amounted to murder of the victim and he is simply shown standing in the said video. Infact, he is a labourer and was present in his factory premises at the relevant time. Nothing has been collected to connect him with the offence of murder of the victim. Trial is likely to take time. The complainant has since been examined and there are no chances of his intimidating him or any other witness. The testimony of complainant is even otherwise quite improbable and unnatural. His further incarceration would not serve any useful purpose. Therefore, it is argued that he deserves to be released on bail.

6. Status report has been filed by respondent-State. It is argued by learned Senior Deputy Advocate General, Punjab that there are serious and



specific allegations against the petitioner. He was not only named by the co-accused but his presence at the time and place of the incident stood established from the video recording made in the mobile phone of the co-accused. The complainant while appearing as PW-1 before the trial Court has identified him as one of the assailants. There are chances of his absconding and intimidating the witnesses, if extended benefit of bail. Therefore, it is argued that he does not deserve to be released on bail.

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

8. The petitioner along with the co-accused is alleged to have formed membership of an unlawful assembly and in prosecution of common object of that unlawful assembly is alleged to have caused the homicidal death of victim Raj Kumar, by inflicting injuries on his person. He was not named in the FIR but he was not only named by the co-accused but was also shown in some video recording prepared by the co-accused Nand Ram on his mobile phone at the time of incident. The said video recording is yet to be proved in evidence and the authenticity or otherwise of the same has to be established on thorough assessment of the evidence to be produced before the trial Court and not at this stage. The petitioner had been duly identified by the complainant at the time of recording of his sworn deposition. The allegations against the petitioner are serious in nature. Taking into consideration, the gravity of these allegations, 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.

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

[MANISHA BATRA]
JUDGE

10th March, 2025
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |