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(275)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16658-2024

Date of Decision: 27.02.2025

SUJAL

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Naveen Kumar Mahajan, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.44 dated 27.02.2023 (Annexure P-1) registered under Sections 302, 323, 336, 148, 149 IPC, 1860 (at the time of framing of charge under Section 324 IPC has been added and charges under Sections 25 and 27 of Arms Act, 1959 not framed) at Police Station Gate Hakima, District, Amritsar.

2. The present FIR came to be registered at the instance of Sukhwinder Singh S/o Swaran Singh and the same reads as under:-

“Statement of Sukhwinder Singh son of Swaran Singh, resident of house no. 6873/22 Wariyam Singh colony Chabal road Amritsar, aged around 29 years, mobile no. 9592315302, made a station that I am resident of above said address and I do job at HP world Nehru complex, Sheetal who is like sister of me has given a birth to a son and we were celebrating on 26.02.2023 at night time in our



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house and were doing party and at around 3.30, 11.00 in the night one I20 color white and of second car I could not read the brand color white, Pratham son of Shailly, Gurdeep Singh son of Dalip, Ajay son of Hira Singh, Sujal son of Sonu, Harpreet Singh @ Poppy son of Karnail Singh, Shera son of Anil, residents of Wariyam Singh colony Asr. came out of them Harpreet Singh @ Poppy, Pratham and Ajay came out of their car and called upon to park the motorcycle at side in the street, after hearing the voice I and my brother Balwinder Singh @ Ballu came out of house and I told I would bring the key and park the motorcycle at side then Pratham and his accomplice started abusing us and in the meantime other persons with them brought baseball and other sharp weapons, we had gone inside our house then above said all the persons pulled out Sonu and my brother Balwinder Singh out of house and in the meantime they called more persons Vijay Bhujji resident of Wariyam Singh colony and 4/5 unidentified persons have been called there who pushed us and Pratham, Ajay and Sujal from their car brought glass bottles and in the meantime our neighbor Hitesh Kumar son of Ashwani Kumar came forward to escape us then out of the above said accused Vijay Bhujji gave baseball blow upon Hitesh Kumar which hit on the backside of his head and other accused along with their weapons and bottles attacked us, Pratham, Ajay and Sujal hit bottles on the head of my brother, my brother due to blows of glass bottles and their weight my brother was in blood and fell down on the ground, then we raised alarm killed us then above said accused fired from their pistols and run from the spot along with their weapons. We had arranged for vehicle and taken Balwinder Singh for treatment to Mahajan Hospital Khazana Gate there Doctor has declared my brother Balwinder Singh @ Ballu as dead, Hitesh Kumar got himself treated at Civil Hospital, Pratham and his accomplice above said has murdered Balwinder Singh @ Ballu and injured Hitesh Kumar against the accused legal action may be taken. I

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*have made the statement, I have read it, it is correct. Sd/-
Sukhwinder Singh Singh.”*

3. During the course of investigation, Amandeep Kaur daughter of Kulwant Singh and Hitesh Kumar were examined by the doctors of Civil Hospital, Amritsar as per which Amandeep Kaur had been found to have received two sharp simple injuries whereas Hitesh Kumar had received one blunt simple injury.

The postmortem of the deceased Balwinder Singh revealed four injuries on his head, left auricle, left eye and left side of the brain and the cause of death was declared to be brain injury.

Accused Pratham and Gurdeep Singh surrendered on 16.03.2023 and suffered their disclosure statements admitting to have committed the offence along with his co-accused.

Sujal (petitioner) surrendered on 03.04.2023 and suffered his disclosure statement admitting to have committed the offence along with his co-accused.

On the basis of the supplementary statement of the complainant/Sukhwinder Singh, Karan Gill @ Pandit and Vivek Kumar @ Vivek Bhandari (granted bail vide orders dated 26.09.2023 and 19.12.2023 Annexures P-3 and P-4) were nominated as accused. Thereafter, Karan Gill @ Pandit was arrested on 19.05.2023 and suffered his disclosure statement describing the manner in which the occurrence had taken place.

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Vivek Kumar @ Vivek Bhandari surrendered on 23.05.2023 and suffered his disclosure statement in line with that of his co-accused namely Karan Gill alias Pandit.

The report under Section 173(2) Cr.P.C. was submitted against Pratham, Gurdeep Singh, Sujal (petitioner), Karan Gill @ Pandit and Vivek Kumar @ Vivek Bhandari.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. Co-accused Karan Gill alias Pandit, Vivek Kumar @ Vivek Bhandari and Gurdeep Singh had been granted the concession of bail vide orders dated 26.09.2023, 19.12.2023 and 13.03.2024 (Annexures P-3 to P-5). As the petitioner was in custody since 03.04.2023 but only 03 of the 26 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. On the other hand, the learned State counsel while referring to the reply dated 01.07.2024 contends that co-accused Karan Gill @ Pandit and Vivek Kumar alias Vivek Bhandari were granted the concession of bail as they had been named in a supplementary statement of the complainant. Gurdeep Singh had been granted the concession of bail as he had not been attributed any injury on the deceased. The case of the petitioner was on a different footing inasmuch as he is stated to have given blows with a glass bottle on the head of the deceased along with his co-accused Pratham and Ajay. Therefore, he was not entitled to the concession of bail.

6. I have heard the learned counsel for the parties.

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7. As per the case of the prosecution as set up in the FIR, the petitioner along with his co-accused Pratham and Ajay have given injuries on the head of the deceased which have proved to be fatal. Karan Gill @ Pandit and Vivek Kumar alias Vivek Bhandari were granted bail as they had not been named in the FIR but came to be nominated as accused on the basis of the supplementary statement of the complainant. Similarly, Gurdeep Singh was granted the concession of bail as no injury had been attributed to him. The case of the petitioner is clearly on a different footing.

8. In view of the fact that the petitioner is one of the main accused having been attributed injuries on the head of the deceased which have proved fatal. I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

27.02.2025

JITESH

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