



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

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CRM-M-63010-2023

Date of decision: 10th March, 2025

Laxman Dass Kushwaha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. M.S. Saini, 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 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 persons asked the complainant and the victim as to why, they 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. Feeling scared, he fled away. The complainant 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 Dass Kushwaha (present petitioner) and Jagan Nath. On the basis of his statement, the aforementioned FIR was registered. Investigation proceedings were initiated. During investigation, the petitioner and co-accused Nathu Kushwaha and Jagan Nath were arrested on 18.04.2023. He was interrogated and suffered disclosure statement admitting his involvement in the crime. Investigation stands completed and the petitioner along with the co-accused is facing trial for commission of the aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The complainant Shyam Kumar has since been examined and has not identified the petitioner as the assailant of the victim in his sworn deposition as recorded before the trial Court. He is in custody since 18.04.2023. In the video clip allegedly recovered at the instance of co-accused Nand Ram, he is claimed to be sitting near the deceased. No such video clip has shown by the complainant at the time of his examination. No specific role has been attributed to the petitioner. Trial



is likely to take time. His further incarceration would not serve any useful purpose. Therefore, it is urged that he deserves to be released on bail.

4. Status report has been filed by respondent-State. It is argued by learned Senior Deputy Advocate General, Punjab that there are specific allegations against the petitioner. He was not only named in the FIR but a specific role had also been attributed to him. A pen drive containing the video recording of the incident captured by the co-accused Nand Ram is part of record and will be proved in evidence in due course. The complicity of the petitioner stands established in the crime. There are chances of his absconding, if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

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

6. 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. The petitioner has placed on record Annexure P-2, which is copy of sworn testimony of the complainant Shyam Kumar as recorded before the learned trial Court. A perusal of the same reveals that the complainant specifically stated that he had not recorded the name of the present petitioner in his complaint/statement. He deposed that he identified the accused Nathu Kushwana and Jagan Nath but not the present petitioner. He also took the names of the other accused and also identified them in the Court but stated that he saw the petitioner for the first time in Court who was not the person



who has caused any injury to the victim who was his uncle, nor he was present at the spot. The prosecution is relying upon some video recording prepared by the co-accused. The pen drive stated to be containing the same video had also been produced before this Court, however, the same is found to be corrupted and could not be played. The status report simply mentions the presence of the petitioner by side of the deceased in the video clip, however, no specific act is shown to have been attributed to the petitioner. Keeping in view the nature of the evidence which has come on record in the form of testimony of the complainant whereby no allegation has been levelled against the petitioner, the period of his incarceration 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 deserves to be released on bail. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. Since the main petition has been allowed, 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*