

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48856-2024
Reserved on: 08.11.2024
Pronounced on: 19.11.2024

Himanshu @ Ishu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Naresh Kumar Chhokar, Advocate for
Mr. Ram Bhati, Advocate,
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
843	02.10.2022	Samalkha, Distt. Panipat	148, 149, 302, 506, 34, 120-B IPC and Sections 25, 54, 59 of Arms Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.

2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents. However, as per paragraph 4 of status report/custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	561	2021	147, 149, 323, 506 IPC	Samalkha, Distt. Panipat
2.	214	02.04.2017	323 IPC	Samalkha, Distt. Panipat
3.	309	23.04.2022	148, 149, 323, 506 IPC	Samalkha, Distt. Panipat
4.	275	2021	201, 379-B, 395, 397 IPC and Section 25 of Arms Act	Lakhan Majra, Rohtak
5.	313	10.09.2021	379, 411 IPC	Ganaur, Sonipat

3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2.(i) That on 02.10.2022, ruqa was received from Government Hospital, Samalkha that Manoj S/o Ajit has been brought dead in the Hospital. On receiving ruqa, police party reached at Government Hospital, Samalkha

where Bijender S/o Deep Chand (uncle of deceased) presented a written complaint. The contents of the complaint are as follows:-

"To, S.H.O, P.S. Samalkha. Respected Sir, 1, Bijender S/o Deep Chand and I am resident of Kuhar Pana, Samalkha. I am an agriculturist. On 01.10.2022 in the afternoon my nephew, Manoj S/o Ajit R/o Kuhar Pana told me that on 30.09.2022, during 'Ramlila', Himanshu S/o Rakesh, Sahil and Rustam etc. abused me and that on 01.10.2022 me and my nephew Sagar s/o Karambir, both of us after watching 'Ramlila' were going to our house through Bhadbhuja Gali. After going a long distance in the Gali at about 10:30 P.M, some persons were beating my nephew Manoj S/o Ajit. When I and Sagar raised our voices, Himanshu @ Ishu s/o Rakesh stabbed Manoj on his sides and waist with a knife which was in his hand, then Sahil s/o Randhir stabbed Manoj with a knife on his waist, then Romi struck Manoj on his hands with knife and then Rustam @ Chota struck Manoj with a Ice Pick (Sua) and even others beat Manoj. That Sagar and I tried to catch them but everyone fled with their weapons who threatened that whoever comes in between will be murdered. Sagar and I took Manoj on motorcycle and admitted him in the Govt. Hospital Samalkha where Doctor declared Manoj as brought dead. Himanshu@ Ishu, Sahil s/o Randhir, Romi grandson of Randhir, Rustam @ Chota (s/o maternal uncle of Ishu) and some other residents of Balmiki Basti, Samalkha have murdered Manoj and that strict action should be taken, against them."

On the basis of said complaint and nature of crime, a formal FIR No. 843 dated 02.10.2022 under sections 302, 148, 149 and 506 of IPC (Section 120-B of IPC and Section 25 of Arms Act were added later on), was registered at P.S Samalkha, District Panipat."

4. The petitioner's counsel prayed for bail on the grounds that the complainant and the second witness did not support the prosecution.
5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.
6. The State's counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report, which read as follows:

“2. (v) That the following accused were found involved in crime and were arrested by the investigating officer during the investigation: -

Sr. No.	Name accused	Date of Arrest	Name come in this case	Role in the crime	Recovery
1.	Himanshu Ishu S/o Rakesh (petitioner)	05/10/2022	Named in the FIR.	He inflicted injuries to deceased by using knife.	Knife
2.	Rustam Chota S/o Badshah.	05/10/2022	Named in the FIR.	He gave beatings to the deceased in conspiracy with other accused with slaps and fists.	NIL
3.	Romi Gunga S/o Sundar Ram	05.10.2022	He is named in the FIR.	He gave beatings to the deceased in conspiracy with other accused.	NIL
4.	Krish Panipatiya S/o Dharambir Singh.	05.10.2024	He was named in the Statement dated 04.10.2022 of the complainant.	He stabbed knife in the chest of the deceased due to which deceased died on the spot.	Knife
5.	Aditya S/o Dharambir Singh.	07.10.2022	His name was disclosed in the disclosure statement of co-accused Himanshu @ Ishu.	He gave beatings to the deceased in conspiracy with other accused.	NIL
6.	Amit Khurchan S/o Parveen	07.10.2022	His name was disclosed in the disclosure statement of co-accused Himanshu @ Isu.	He attacked deceased with slaps and fists.	NIL
7.	Sahil S/o Randhir	08.10.2022	He is named in FIR, statement of complainant dated 04.10.2022.	He gave knife blows in the waist of the deceased.	Knife
8.	Sahil @ Gaba S/o Rajesh (Petitioner)	08.10.2022	Named in FIR, Statement of Complainant dated	He inflicted injuries on the hand of deceased by using gandasi.	Gandasi

			04.10.2023.		
9.	Vijay S/o Jaswant	08.10.2022	Named in FIR, Statement of Complainant dated 04.10.2023.	He was found present on the crime spot and was armed with sword on the date of incident. He gave lalkara on the date of incident.	Sword

During the course of interrogation, above said accused have voluntarily suffered their separate disclosure statements admitting therein the manner in which they remain involved in crime. As per the nature of crime, Sections 120-B of I.P.C. and Section 25 of Arms Act were added in the case. True copy of disclosure statement of accused Sahil @ Gaba (Petitioner) is annexed herewith as Annexure R-2.

(ix) That the relevant records pertaining to the case have been collected by the police and after completion of the investigation in proper, fair, thorough and impartial manner, the police has prepared final report on 10.12.2022, against the accused persons namely:- (i) Himanshu @ Ishu, (ii) Romi @ Gunga, (iii) Rustam @ Chota, (iv) Krish @ Panipatiya, (v) Aditya, (vi) Amit @ Khurchan, (vii) Sahil, (viii) Sahil @ Gaba, (ix) Vijay on the basis of facts, evidence, statements, documents, records and material available on the police file, and submitted the same in the L.d. JMIC, Samalkha u/s 302, 506, 148, 149, 120-B of IPC and Section 25, 54 of Arms Act. In the meantime, accused Aditya, Krish @ Panipatiya and Romi @ Gunga filed application before Ld. JMIC, Samalkha for declaring them to be juveniles which was allowed vide order dated 27.02.2023. Hence, the Ld. JMIC, Samalkha committed the case of the remaining accused to the Court of Ld. Session Judge, Panipat for trial and directed the investigating officer to present the enquiry report of the juvenile in conflict of law in the Ld. Juvenile Justice Board, Panipat.

Subsequently, final enquiry report against the delinquent juveniles was submitted before Ld. Juvenile Justice Board, Panipat 06/03/2023 u/s 302, 506, 148, 149, 120-B of IPC and Section 25, 54 and 59 of Arms Act. However, the Ld. Justice Juvenile Board, Panipat found that the age of juveniles in conflict of law including the petitioner falls under the age group of 16 years to 18 years and they have committed heinous crime. Hence, the case was referred to be tried by the Court of Session vide order dated 24.07.2023."

8. Although the PW-1 and PW-2 were declared hostile and did not support the prosecution's case, however, other material witnesses are yet to be examined.

9. The trial is going on, and scientific evidence and official and other witnesses have yet to be examined.
10. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.
11. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
12. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

19.11.2024
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.