

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

Reserved on: 10.05.2019
Date of decision: May 14, 2019
CRM-M-52282 of 2018 (O&M)

Amir Chand @ Meera

.....Petitioner

Versus

State of Haryana

.....Respondent

CRM-M-4701 of 2019 (O&M)

Anil

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Naveen Gupta, Advocate and
Mr. Nitin Sachdeva, Advocate for the petitioner
(in CRM-M-52282 of 2018).

Mr. R.S. Arya, Advocate for the petitioner
(in CRM-M-4701 of 2019).

Mr. Manish Bansal, DAG Haryana.

Mr. Rajesh Goyal, Advocate for the complainant.

MAHABIR SINGH SINDHU, J

By the present common order, above-mentioned both the petitions are being disposed off having arisen from the same FIR.

2. Present petition(s) have been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for release of the petitioner(s) on bail pending trial in FIR No.13 dated 15.01.2018, under Sections 148, 149, 342, 377, 302, 120-B of the Indian Penal Code, 1860 (for short 'IPC') and Section 3 of the Scheduled Castes and Scheduled

Tribe (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') ,
registered at Police Station Israna, District Panipat.

3. In brief, the case of the prosecution is that on 15.01.2018, Vicky (PW1) son of Raghbir got recorded his statement (Exhibit P-1) before Sub Inspector Kanwar Singh (PW-5) while alleging that he is a labourer and his brother Vikram (since deceased) was also working as a labourer. Jeeta son of Chander who is resident of their village was having suspicion about illicit relations of Vikram with his wife. Yesterday, i.e. on 14.01.2018, at about 10:00 P.M., his brother had gone to a shop for bringing *biri*, but he did not come back till late hours and consequently, he made sufficient efforts to search him, but failed. On next morning, at about 5:00 A.M., when complainant was going to trace out his brother in the street, then he heard the cries of Vikram from the house of Jeeta and where he saw after going inside, that Balraj son of Chander, Sunil son of Balraj, Leela (petitioner) son of Balraj, Meera son of Chandan (petitioner), Sanjay son of Balbir and Jeeta son of Chander, residents of their village were present there and out of them, Jeeta and Meera were having iron rods in their hands, whereas, Sanjay was having a belt and Balraj, Sunil as well as Leela having *dandas* in their hands and giving beatings to Vikram. They continued the beatings even in his presence and thrust *danda* in the anus of Vikram due to which, blood started oozing from his anus and he became unconscious. He cried *bachao bachao*, then all the accused fled away from the spot of occurrence along with their respective weapons. Thereafter, he called his father at the place of occurrence and got admitted his brother Vikram in

N.C. College, Israna, where doctor gave him first aid and he requested for legal action.

4. On the basis of the statement of Vicky, above FIR was registered under Sections 148, 149, 323, 342, 377, 307 IPC. against six accused persons. M.L.R. dated 15.01.2018 of Vikram (since deceased) was prepared by Dr. D.P. Bhatia (PW8) and four blunt injuries were found, out of which, injury No.4 was declared to be dangerous to life. During investigation, police found that while giving beatings to Vikram, accused used caste related words also and doctor of PGIMS, Rohtak declared Vikram dead as a result of injuries suffered by him. Consequently, Section 302 IPC and Section 3 of SC/ST Act were also added. Accused were arrested on 15.01.2018 and after completion of investigation, report under Section 173 of Cr. P.C. was submitted on 11.04.2018 before the Court of competent jurisdiction.

5. Learned Senior counsel for the petitioner-Amir Chand @ Meera contends that the petitioner is in custody since 15.01.2018 and no specific injury has been attributed to him. Further contends that testimonies of complainant and his father have already been recorded and three co-accused, namely Sanjay, Balraj and Sunil have already been granted the concession of bail by Coordinate Bench of this Court, on 28.11.2018, 06.12.2018 and 21.12.2018 respectively. Also contends that petitioner is residing separately from accused-Jeeta and as such, no purpose will be served by keeping the petitioner behind the bars.

Learned counsel for the petitioner-Anil while supplementing the contention raised by learned Senior counsel, submitted that neither

any injury has been attributed to petitioner-Anil nor anything has been recovered during investigation. Also contends that he has not played any role in commission of offence; rather falsely implicated just being the relative of co-accused-Jeeta.

6. On the other hand, learned State counsel as well as learned counsel for the complainant have opposed the prayer for grant of bail to both the petitioners while submitting that they along with other co-accused committed a heinous crime and caused injuries to the deceased-Vikram by inserting a *danda* in his anus, which resulted into his death and in case, the petitioners are released on bail, they are likely to hamper the trial being mighty persons and thus, prayed for dismissal of the petitions.

7. Heard learned counsel for the parties and perused the paper-book.

8. The scence of crime visiting report dated 19.01.2018 submitted by Senior Scientific Officer, FSL, Madhuban reveals that spot was inspected by the team on 15.01.2018 and the alleged place of occurrence was the house of Ajit Singh @ Jeeta son of Chandan, where Vikram was reportedly confined in husk storage room-cum-store and attacked.

9. Report dated 21.08.2018 from Forensic Science Laboratory, Bhondsi, Gurugram reveals that blood was detected on wooden *danda* (approximately 115 c.m.) (Exhibit-4) as well as vegetative material/*toori* (Exhibit-1), sweater (Exhibit-2E), shirt (Exhibit-2A), pants (Exhibit-2B), underwear (Exhibit-2C), *payjami* (Exhibit-2D). As per postmortem

report dated 16.01.2018, the deceased was 24 years of age and 22 injuries were found on his person and injuries No.21 and 22 are as under:-

“21. A reddish contusion of size 3x3 cm was present over the left testis. On dissection, underlying soft tissues were ecchymosed.

22. Multiple lacerated wounds of size 3x1 cm to 1x1 cm around the anus. The wound margins were irregular in shape and tissue bridging was evident. On dissection, ecchymosis was present around the anterior and posterior aspect of anal orifice and extending 2 cm deep in it.”

10. The cause of death in this case was opined to be the injuries described in the postmortem report and their complications.

11. Vicky (complainant), who is the eye-witness, has been examined as PW1 and he has fully supported the version recorded in his statement (Exhibit P-1) and clearly deposed that both the petitioners were very much present at the time and place of occurrence along with other co-accused and they were giving beatings to his brother-Vikram (since deceased). Petitioner-Meera was having an iron rod, whereas, petitioner-Anil was armed with *danda*. He has also deposed that petitioners and Jeeta are real brothers. This witness also denied the suggestions during cross-examination that petitioners were not present at the time of occurrence or that passerby had caused injuries to his brother on account of protest made by Sunita.

12. Sub Inspector Kanwar Singh has also been examined as PW5 and has supported the prosecution case and clearly deposed that he received the information regarding the injured Vikram from the Hospital,

on 15.01.2018, and obtained the opinion of doctor and he opined that Vikram was unfit for making any statement. Consequently, he recorded the statement of his brother, namely Vicky (PW1), as Exhibit P-1 and he has also identified the *danda*, which was got recovered during investigation.

13. Dr. D.P. Bhatia, who has also been examined as PW8 has supported the prosecution case and he has produced his affidavit (Exhibit PW8/A), in which, it is deposed that fresh bleeding was present from the anal area and all injuries were caused by blunt weapon within a duration of 12 hours and were dangerous to life. Similarly, Dr. Piyush Jain, who has also been examined as PW7, has also supported the prosecution case and stated that effect of all the injuries may lead to periphal pooling of blood, i.e. third space loss of blood, which can lead to death.

14. Therefore, there is sufficient material on record against the petitioners and thus, there is no justification to release them on bail. It is note worthy to mention here that the complainant side belongs to a very poor strata of society and their family member, i.e. deceased suffered a barbaric attack at the hands of the petitioners and their co-accused and that too, in their house. Thus, it can be termed as nothing but inhuman as well as a relic of uncivilization.

15. The concession of bail already granted to co-accused will be of no help to the petitioners in view of the fact discussed above that now, Sub Inspector Kanwar Singh (PW5), Dr. Piyush Jain, PGIMS, Rohtak (PW7) and Dr. D.P. Bhatia (PW8) have been examined on 04.02.2019, 01.04.2019 and 12.04.2019, respectively, while fully supporting the

prosecution case, but their testimonies were not available at the time when bail was granted to three co-accused of the petitioners by Coordinate Bench of this Court. This Court was apprised by learned State counsel that remaining prosecution witnesses have been summoned on 29.05.2019 by learned trial Court and there is every likelihood that petitioners may hamper the trial also. Therefore, at this stage, releasing of the petitioners on bail pending trial is not justified.

16. As a result, both the petitions stand dismissed. Interim order (s), if any, stand(s) vacated. Pending application(s), if any, also stand(s) disposed off.

17. Keepnig in view the peculiar facts of the case, learned trial Court will ensure to proceed with the matter on day to day basis, if there is no legal impediment.

18. The observations made above may not be construed as an opinion expressed on the merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

May 14, 2019

mahavir

Whether speaking/ reasoned: **Yes**

Whether Reportable: **Yes**