

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

**CRM-M No.49341 of 2018
Decided on: 25.01.2019**

Sanjeev Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab.

Mr. S.P. Khera, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.125 dated 18.06.2017, for offence punishable under Sections 307, 186, 353, 148, 149, 302 of the Indian Penal Code (in short 'IPC') and 25/27 of the Arms Act, registered at Police Station Cantonment, Amritsar City, District Amritsar.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered on the complaint of ASI Balbir Singh he, on receiving an information that a fight is going on at Sarai Putlighar, reached at the spot along with Constable Rajesh and found that one Karaj singh son of Puran Singh is affixing an iron gate on a plot and 03 persons namely Sunil Kumar @ Sonu, the petitioner – Sanjiv Kumar both sons of Prem Kumar, Bobby Juice Bar and one Raj

Kumar @ Raja, were obstructing him from doing so. When the complainant stopped them from fighting against each other and asked them to show document regarding the property or any order of the Court, Sanjiv Kumar and Sunil Kumar @ Sonu could not produce any document but they started arguing with the complainant and rather called their other friends namely Surinder Chaudhari and his son Pawan Kumar, who also reached at the spot along with their friends and started raising a commotion. It is further stated that when the complainant/ASI stopped them from doing so and noticing that the situation was aggravating, he apprised the Officer Incharge of the concerned Police Station and additional police force was called at the spot. In the meantime, Surinder Chaudhari and his friends opened the adjoining shop of Bobby Juice Bar and brought empty bottles and brick bats from the street and started throwing them towards the labour and artisans as well as the police party. When the complainant with the help of his co-officials tried to stop them, then Surinder Chaudhari in his loud voice said throw brick bats towards the police party so that they should run away from the spot. On this, Pawan Kumar son of Surinder Chaudhari gave a brick bat blow on the head of Constable Rajesh Kumar with an intention to kill him and he suddenly fell down and thereafter, one of the accomplice of Surinder Chaudhari fired in the air and then Surinder Chaudhari and his son along with their friends ran away from the spot. The injured Constable was taken to the hospital and thereafter, the FIR was registered primarily under Section 307 IPC, however, when Constable Rajesh Kumar died, later on, Section 302 IPC was invoked.

Counsel for the petitioner has further submitted that as per the allegations in the FIR, no injury is attributed to the deceased as he has died only on account of a single injury sustained by him on his head and the same is attributed to co-accused Pawan Kumar. It is further argued that the co-accused of the petitioner namely Raj Kumar @ Raja, Surinder Kumar Chaudhary, Sourav Mahajan and Rajnish Kumar @ Bobby have already been granted the concession of regular bail by this Court vide orders dated 16.01.2018 passed in CRM-M No.25994 of 2017 and dated 10.09.2018 passed in CRM-M No.1775 of 2018.

Counsel for the petitioner has also submitted that the petitioner is in judicial custody since 29.01.2018 and the case is still at the stage of framing of charge against the petitioner and he is no more required for further custodial interrogation. It is further argued that the case of the petitioner is on similar footing that of co-accused Rajnish Kumar @ Bobby, who was granted bail considering the fact that he was also not attributed any injury to deceased – Constable Rajesh Kumar.

Counsel for the State, on instructions from SI Rashpal Singh, assisted by counsel for the complainant has not disputed the factual position but opposed the prayer for bail. It is further submitted that the shop Bobby Juice Bar is owned by brother of the petitioner namely Rajnish Kumar, who has already been granted the concession of regular bail and the petitioner is not owner of the shop.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner have already been granted the concession of bail; he is not involved in any other case; the petitioner is in custody since 29.01.2018 and also in view of

the fact that there is no direct allegations against the petitioner – Sanjeev Kumar except that he was also present at the spot along with the co-accused and also noticing the fact that conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

25.01.2019
yakub

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