

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

CRM-M-6442-2020 (O&M)

Date of Decision:- 24.2.2020

Surender Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Naresh Kumar Shekhawat, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana
assisted by ASI Gurpal Singh.

GURVINDER SINGH GILL, J.

1. The petitioner has approached this Court seeking grant of regular bail in a case registered against him vide FIR No.403 dated 27.10.2018 under Sections 148/149/323/302/379/506/120-B/212 IPC at Police Station Kanina, District Mahendergarh (Haryana).
2. The FIR in question was lodged at the instance of Poonam wherein it has been alleged that they are having dispute in respect of joint land with Surender and Naresh and on account of which the aforesaid Surender, Naresh as well as sons of Surender namely Ajay, Vijay and Billu had fight several times regarding which both the parties had made complaints to the police. Even on 22.10.2018, Ajay etc. had fought with complainant's husband regarding which a complaint had been made to the police. It is alleged that on 26.10.2018, when the complainant and her husband Vivek

were working in their fields, Surrender, Naresh, Ajay, Vijay, Billu and Munesh wife of Surrender came there armed with 'rods', 'sticks' and 'axe' and upon seeing them, complainant's husband immediately told her to go home and to call his mother and other persons from the village. While the complainant started to leave from that place, she saw that Ajay gave a blow on the left leg of complainant's husband with an 'axe', Naresh gave a blow with 'rod' on the right leg of her husband and upon which her husband fell down and thereafter, the said persons gave beatings to her husband with 'rods', 'sticks', 'axe' and 'jelly' with an intention to kill him and also gave kicks and fists blows. Vijay is alleged to be carrying a 'jelly', which he was piercing in the body of complainant's husband. Upon seeing, the complainant started crying and raised alarm and upon which the said accused left from that place in their tractor while issuing threats to kill her as well. It is alleged that although the complainant's husband was taken immediately to Government Hospital, Kanina from where he was referred to Government Hospital, Rewari where he was declared dead.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that even as per the FIR there is no specific attribution of any injury to the petitioner and that it is co-accused Ajay, Naresh and Vijay who are attributed specific injuries. It has further been submitted that even the police after investigation had presented challan against the accused Surrender in respect of an offence under Section 302/120-B IPC and even the trial Court has framed charges against the present petitioner in respect of an offence under Section 302 read with

Section 120-B IPC and that no charge for any substantive offence of murder has been framed.

4. The learned counsel in order to hammer forth his aforesaid submission has referred to the disclosure statement of co-accused Ajay wherein he has admitted that he has caused injuries with a '*saria*' to the deceased and had killed him and that all other persons against whom allegations are levelled were not present at the spot. The learned counsel has also referred to the testimony of PW-2 Sunder Pal, PW-3 Mahavir Singh, PW-4 Parmod to contend that the said PWs have not fully supported the case of the prosecution.
5. Opposing the petition, the learned State counsel has submitted that the petitioner having been specifically named in the FIR and also having been attributed a motive for the alleged murder i.e. the existence of a dispute over land, no case for grant of bail is made out.
6. I have considered the rival submissions addressed before this Court.
7. A perusal of the FIR would show that the complainant has specifically stated therein that there is a dispute in respect of a joint land between the complainant's family and Surender regarding which there have been fights amongst them on earlier occasions also. The complainant has specifically stated therein that all the accused including the petitioner had come to the fields when the complainant along with her husband were working in the same and had caused injuries to her husband. Although, it may be correct that there is no specific attribution as far as the petitioner is concerned but given the fact that the petitioner is specifically named to be amongst the assailants and it is the petitioner who has been attributed a motive as well

and that a large number of injuries were found on the dead body of the deceased, the contention of the petitioner that he has been falsely implicated does not inspire confidence.

8. As far as the disclosure statement of co-accused, Ajay (Annexure P-2) is concerned, no doubt in his disclosure statement he has taken the entire blame on himself by stating that he had caused multiple injuries to the deceased with the help of a '*saria*' and has also caused injuries to Parmod but the same appears to be an apparent attempt on his part to save other members of his family who are co-accused including his father i.e. the present petitioner. His version is not worth credence, given the fact that the postmortem report (Annexure P-10) reveals that as many as 20 injuries were found on his person of deceased including punctured wounds which certainly cannot be said to have caused with a '*saria*' which he was carrying. The said injuries are certainly not the handy work of one person, as is being claimed by Ajay in his disclosure Statement (Anmnexure P-2).
9. In view of the aforesaid discussion made above, the complicity of the petitioner in the entire occurrence is evident. There is no merit in this petition and the same is hereby dismissed.
10. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

24.2.2020

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No