

201-4

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

Reserved on: June 02, 2020

CRM-M-11791 of 2020 (O&M)

Date of decision: June 9th, 2020

Paras Rana

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vishwajit Bedi, Advocate for the petitioner.

Mr. Pardeep Chahar, AAG Haryana.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.83 dated 28.06.2018, under Sections 120-B/148/149/302/307/323/427 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'Arms Act') (Sections 506/201 of IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') added later on), registered at Police Station Kalka, District Panchkula.

The FIR case was registered at the instance of complainant Yog Raj @ Pinki son of Sucha Ram aged 28 years resident of Village Majra Mehtab, P.S. Kalka, with the allegations that on 28.06.2018, he along with his friends, Satish @ TT resident of Majra Mehtab, Aman

son of Satpal, Deepa @ Dalip, Lakhwinder @ Happy, Harvinder @ Pola residents of Majra Mehtab, Vikram @ Vicky (since deceased) resident of Ghatiwala, Pinjore and Mahinder @ Minder son of Lajja Ram, Village Majra Mehtab gathered at Paploha sand outlet for birthday celebration of Vikram @ Vicky. At about 4.30 PM six vehicles having about 30 young boys armed with sticks, swords, rods, guns etc. came from Kherawali side. He noticed that Umesh Kumar @ Matru, Akram resident of Panga Majri, Ishar Nagar, Pamma resident of Baddi armed with .12 bore gun each and Gurmeet @ Roda resident of Sukhomajri, Madan @ Maddu, Satta resident of Manakpur, Makhan resident of Sukhomajri, Rinku resident of Kattal Barottiwala, Gola resident of Khada Pathar Wasudevpura, Deepu Kaimbwala, Sourav Jassu resident of Pinjore, Billa resident of near Chikan, were armed with pistols and swords and they started indiscriminate firing. Upon noticing firing, Vikram @ Vicky tried to hide himself on the rear seat of Scorpio No.HR49-C-9358, but Umesh Kumar @ Matru, Pamma Baddi and Akram fired indiscriminately and due to that Vikram @ Vicky died on the spot inside the Car. When they tried to save themselves, then Makhan Sukhomajri, Madan @ Maddu, Gurmeet @ Roda Sukhomajri, Gola resident of Khara Pathar, Rinku r/o Kattal Barottiwala, Billa resident of Chikan, Satta Manakpur, Deepu resident of Kaimbwala, Ram Gopal @ Pallu R/o Kona, Sourav Jassu, Yashpal @ Yashu Resident of Tagra Hansua, ran after them while firing along with other accomplices and on account of this Dalip @ Deepa suffered a gunshot injury on his waist, Lakhwinder @ Happy suffered a gun

shot injury on his arm, Mahinder @ Minder given sword blow, Harvinder @ Pola gun shot injury, Nirmal @ Happy suffered a rod blow. On hearing the firing, people started gathering there and all the assailants damaged one Alto Car (HR-49-C-7838) with their rods and while firing they ran away towards Kalka side in their respective vehicles. All the assailants had come on the place of occurrence at the instance of Bhupinder Singh @ Babu and Sham Lal Tagra to murder him (complainant) and his friends. All the accused came there on account of previous enmity of the complainant with Bhupinder Singh @ Babu & Sham Lal Tagra, and in order to take revenge, they had sent about 30 young boys of their gang to kill the complainant as well as others, on account of which Vikram @ Vicky died on the spot due to firing whereas others sustained injuries. Bhupinder @ Babu and Sham Lal Tangra connived with each other and sent 30 boys in order to commit the crime and they came in two white colour Scorpio, one white colour Verna car, One white colour Brezza, one white Swift car and one Alto Car of golden colour.

Learned counsel for the petitioner contended that petitioner is in custody since 04.07.2018, after investigation in the matter, challan has already been presented, charges were framed on 29.10.2019; and now the case is pending for prosecution evidence. Further contended that out of total 67 prosecution witnesses, none has been examined till date. Also contended that petitioner is neither named in the FIR; nor any incriminating material was recovered from him during investigation, rather he was nominated as an accused on

the basis of disclosure statement dated 04.07.2018 made by co-accused-Ganesh @ Gola and Bittu, Krishan, Makhan & Yashu. Lastly contended that some of the co-accused with similar allegations have already been granted bail pending trial either by this Court or learned trial Court.

The above factual position was duly acknowledged by the learned State counsel, on instructions from Sub Inspector Zile Singh except the factum of recovery and submitted that during investigation, an iron rod was duly recovered from the petitioner and he used the same in the present occurrence. Thus, the petitioner has actively participated while committing the murder of a young boy belonging to scheduled caste community in a broad-day light with mob of thirty (30) accused who came in six different vehicles. Lastly submitted that in case, the petitioner is granted the concession of bail pending trial, he is most likely to threaten the prosecution witnesses and hamper the smooth proceedings before learned trial Court.

Heard both sides and perused the paper-book.

As per allegations of the prosecution, deceased-Vikram @ Vicky was organizing his birthday party on 28.06.2018, then all of a sudden, present petitioner along with thirty (30) other accused came there in six different vehicles, viz. two Scorpio, one Verna, one Brezza, one Swift and one Alto; armed with deadly weapons including guns, iron rods, *lathis* etc. and attacked the victims indiscriminately. As a result thereof, Vikram @ Vicky died on the spot and other suffered serious injuries. During investigation, an iron rod was recovered at the

instance of the petitioner which was used by him in the present occurrence. Affidavit dated 29.05.2020 filed by the Assistant Commissioner of Police, Kalka also reveals that one mobile phone No.85556962692 (Apple) was recovered from the petitioner during investigation, and at the time of committing the crime, the tower location of said mobile is duly established on the spot of occurrence on 28.06.2018. Petitioner has also demarcated the scene of crime on 06.07.2018. Thus, at this stage, there is sufficient material which indicate that petitioner actively participated in the commission of crime and in case, he is released on bail, most likely to hamper the trial.

The argument on behalf of the petitioner that some of the co-accused have been granted concession of bail either by this Court or learned trial Court, is not helpful to the petitioner. Orders dated 05.03.2020, in CRM-M-8548-2020 (Sohan Lal versus State of Haryana) as well as dated 12.05.2020, in CRM-M-12142-2020 (Hem Raj and Pawan Kumar versus State of Haryana), while granting bail to the co-accused by the Coordinate Benches of this Court, nowhere reveal that any incriminating material was recovered from the above co-accused, during investigation. Still further, it transpires that bail to another co-accused, namely Ganesh Kumar @ Gola was granted by learned trial Court vide order dated 14.05.2020 relying upon the orders dated 05.03.2020 and 12.05.2020 (supra) on the ground of parity, despite the fact that as per prosecution case, an iron rod was recovered from him, during investigation; therefore, this Court does not deem it

appropriate to extend the benefit of this order to the petitioner, in any manner.

In view of the facts and circumstances discussed hereinabove, this Court has no option except to dismiss the present bail petition.

Ordered accordingly.

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

(MAHABIR SINGH SINDHU)
JUDGE

June 9th, 2020

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No