

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

Criminal Misc.M-16303 of 2020

Date of Decision: September 17, 2020

Vinod @ Panji

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Kunal Dawar, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Jaiveer Yadav, Advocate,
for the complainant.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.409 dated 10.09.2019, under Sections 302, 307, 148, 149 IPC and 25 Arms Act, 1959, registered at Police Station, Dabua, District Faridabad. The petitioner is in custody since his arrest on 22.09.2019.

The above FIR was registered on the statement of complainant-Ravinder, wherein it was stated that he was working in Government Press. On 09.09.2019 at about 10.30 p.m., when he was present at his house, one Rohit son of Kanwar Pal came to call his younger brother Naresh. The complainant's brother Naresh informed him about occurrence of fight in the vegetable market and they were going to vegetable market to get the matter resolved. When they reached the office of Banwari and Chhotu in the market, then his father asked Naresh to return back, upon which Naresh

stated that he would be back in some time. Having a doubt of some fight, the complainant reached Dabua vegetable market near gate of Janta colony, near jhuggi at about 11.50 p.m., where he saw that his brother Naresh was lying on the road in mud and Netar Pal was giving injuries to him with iron rod in his hand. Banwari was also giving injuries to Naresh with iron rod in his hand and Lutas, Chhotu, Satish Garhwali, Daulat Pandit, Chhaliya, Sunny Sardar and their other associates having iron rods, sticks, shocker in their hands were giving beatings to his brother, upon which he raised alarm and called for help, then the accused persons with an intention to kill him, fired gun shots from their country made pistols and while firing in the air, they ran away from the spot. The complainant with the help of public took his brother to Fortis Hospital, NIT, Faridabad for treatment. In this fight, Deepak had also suffered injuries. The doctor declared his brother Naresh as dead. On these broad, allegations, the above FIR was registered.

Learned counsel for the petitioner contends that the FIR was lodged by Ravinder (eye witness) regarding the alleged offence of murder of his brother, namely, Naresh. It is pointed out that the occurrence took place on 09.09.2019 and the FIR was registered on 10.09.2020, and the complainant did not name the petitioner as an accused. Even in the request for recording his supplementary statement made on 03.10.2019, the name of the petitioner was not mentioned by him. It is pointed out that the petitioner has been arraigned as an accused on the basis of a disclosure statement suffered by co-accused, namely, Anoop @ Chhaliya. He has further invited the attention of the Court to the order (Annexure P-5), whereby similarly situated accused was granted the concession of regular bail vide order dated 28.01.2020. He submits that the charges were framed on 21.11.2019 and

only three witnesses have been examined so far. He prays for grant of regular bail to the petitioner, during the pendency of the trial.

On the other hand, the prayer is opposed by the learned counsel for the complainant and the learned State counsel assisted by SI Udey Pal on the ground that the offence is serious and petitioner was also involved in the commission of the crime. According to Mr. Jaiveer Yadav, the victim was brutally murdered, who suffered serious injuries on all the vital parts of his body. According to him, the complainant is yet to be examined and, therefore, the petitioner does not deserve the concession of bail. It is pointed out that the co-accused, who was released on regular bail, was found to be juvenile, therefore, the concession of bail was extended to the said accused. However, it is not disputed by the learned State counsel that the said co-accused Rohit was also indicted as an accused on the basis of the disclosure statement of the co-accused.

At this stage, Mr.Dawar, learned counsel for the petitioner has pointed out that the disclosure statement made by the co-accused is silent about the role of the petitioner, who was not even armed with any weapon. According to him, the trial is likely to consume considerable time, therefore, the petitioner deserves the concession of bail.

Considering the above background, custody of the petitioner and the fact that the trial is likely to consume considerable time to conclude as the country continues to be in the throes of global pandemic, namely, COVID-19 and the State Government and District Administration have also imposed various restrictions to curb its spread, this Court does not find any reason to decline the prayer. The petitioner after his arrest on 22.09.2019, is presently confined in judicial custody, therefore, his further detention

behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Faridabad.

The petition is allowed.

September 17, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No