

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No. M-16396-2020(O&M)
Date of Decision: 10.07.2020

Om Parkash

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Lakhwinder Singh Sidhu, Advocate,
for the petitioner.

Mr. Kuldeep Tiwari, Addl.A.G., Haryana

ANIL KSHETARPAL, J.

Present petition has been filed by the petitioner, namely, Om Parkash, under Section 439 Cr.P.C. for grant of regular bail in FIR No. 389, dated 01.12.2019, registered under Sections 302/34/341 IPC, at Police Station Sadar Tohana, District Fatehabad.

In a nutshell, the case of the prosecution has been noticed by the learned Additional Sessions Judge, Fatehabad, in paragraph 2, which is extracted as under:-

“ 2. As per police reply, on 01.12.2019, an information was received in Police Station Sadar, Tohana from Civil Hospital, Tohana regarding admission of Des Raj son of Parkash Chand, resident of Rupawali in Civil Hospital, Tohana in a dead condition. On this, SI/SHO Ravinder Kumar alongwith fellow police officials reached at Civil Hospital, Tohana and complainant Anil Kumar son of Parkash Chand i.e. brother of deceased alongwith his family members was found present near the dead body of Des Raj. Statement of complainant Anil Kumar was got recorded and he alleged in his statement that he was running a provisional store in village Rupawali. On 30.11.2019, there was a function in relation to the marriage of his cousin Lovely daughter of Ram Lal and their entire family and relatives were attending the said programme. Then, at about 10:15 pm, his brother Des

Raj entered into an argument with their relatives namely Om Parkash son of Mukandi Lal, Sandeep son of Joginder, residents of Preet Hospital wali gali, Tohana, Sonu and Gaggi sons of Pawan, residents of Chhajli (Punjab). The relatives and other persons present on the spot intervened and the matter was sorted out. On 01.12.2019 at about 08:30 am, he alongwith his brother-in-law Sushil Kumar son of Ishwar, resident of Gupta Colony, Tohana was present in front of their house and were having conversation. Then, his brother Des Raj was going in the street for bringing water and his brother Des Raj reached in front of house of Suresh Kumar, then, Sonu son of Pawan, resident of Chhajli (Punjab) was present there. The said Sonu stopped his brother Des Raj and started arguing with him. Then, Om Parkash son of Mukandi Lal, Sandeep son of Joginder, Gaggi son of Pawan came out from the house of Suresh. Gaggi was carrying a thapi and Om Parkash and Sandeep caught hold his brother Des Raj. Then, Gaggi gave a thapi blow on the head and temple of his brother Des Raj due to which his brother Des Raj fell on the ground. Thereafter, he alongwith his brother Sushil came on the spot and all the four assailants fled away from the spot. They had taken his brother Des Raj to Civil Hospital where he was declared brought dead. The case FIR was registered and the matter was investigated. The petitioner/accused Om Parkash was arrested on 27.12.2019. The final report in the present case was presented on 31.01.2020 and the case was received in the court of undersigned by way of assignment on 28.02.2020.”

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Learned counsel for the petitioner contends that even as per the case of the prosecution, the petitioner was empty handed and he along with Sandeep had caught hold the deceased when Gaggi, who was carrying a wooden baton which is generally used for washing clothes, had given a single blow on the temporal region of the head of the deceased. He submits that it is a case of single blow.

Learned counsel for the State has submitted that the petitioner had played active role while catching hold the deceased facilitating Gaggi, a

co-accused, to inflict blow on the deceased.

It is not in dispute that the petitioner was unarmed. Although, the police has concluded its investigation and presented final report under Section 173 Cr.P.C, however, charges have not been framed.

Conclusion of the trial is likely to take time. The petitioner is in custody since 27.12.2019. He does not have any criminal antecedents. Anil and Sonu, co-accused have already been granted bail by the trial court.

Keeping in view the facts of the case, this Court is of the considered view that further incarceration of the petitioner, at this stage shall not be justified.

Without commenting on the merits of the case and keeping in view the fact that the petitioner is in custody since 27.12.2019 and conclusion of the trial is likely to take time, the petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

Accordingly, the present petition is allowed with the aforesaid directions.

(ANIL KSHETARPAL)
JUDGE

July 10, 2020

“nt”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No