

CRM-M-16979-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CRM-M-16979-2020

Date of Decision: 16th July, 2020

Raj Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present Mr. Sumit Sangwan, Advocate
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

Mr. Vineet Chaudhary, Advocate
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.415, dated 14/15.10.2018, registered at Police Station Badhra, District Charkhi Dadri, under Sections 147, 148 , 149, 302, 307, 323, 341, 186, 325, 332 and 353 of the Indian Penal Code.

It is the contention of the learned counsel for the petitioner that the petitioner is although named in the FIR and stated to be armed with a *danda*, which is alleged to have been recovered from him but no specific allegation with regard to hitting any person with the same or using the same has been made in the FIR. Reference has also been made to the statements

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of Pardeep (PW-1) as also that of Kamal Singh (PW-2) to support this assertion. He contends that the allegation against the petitioner which is said to have been attributed is a *danda* blow upon deceased – Vikas, which is not substantiated with the evidence which has been given by the said witnesses in Court. He contends that the accused is in custody since 15.10.2018 and the trial is not likely to conclude in near future especially in the prevailing circumstances. Assertion has also been made that the petitioner is in custody for more than one year and eight months. Out of 46 prosecution witnesses, only two witnesses have been examined and the next date of hearing before the trial Court is 03.08.2020, when again there is every likelihood of the case being adjourned. Apart from that, he asserts that two other co-accused have been granted the concession of bail by this Court in CRM-M-12812-2020, titled as 'Sombir Vs. State of Haryana', decided on 08.06.2020 (Annexure P-3) and in CRM-M-3826-2020, titled as 'Amit Vs. State of Haryana', decided on 03.03.2020 (Annexure P-4). He, thus, contends that the petitioner also deserves to be granted the concession of bail.

Counsel for the State, on the other hand, contends that it is a case of double murder, where even the accused persons had attacked the police officials, who were present at the spot. It is asserted by her that the petitioner has been attributed an injury on the person of Vikas – deceased. She, however, could not dispute the factual aspect that out of 46 prosecution witnesses, only two witnesses have been examined. Assertion has also been made there is two other FIRs registered against the petitioner and therefore,

he does not deserve the concession of bail.

Counsel for the complainant has asserted that it is a case where two persons have lost their lives and five persons injured. Merely because the petitioner has not been attributed a specific injury cannot be the only ground for grant of bail. It is asserted that the applications of the co-accused are listed for hearing on 21.07.2020 before this Court and therefore, the present case be also adjourned for the said date. Prayer has, thus, been made for fixing the present case along with the cases of co-accused on the said date and in any case, to dismiss the present case because of the above factual position.

I have considered the submissions made by the learned counsel for the parties and on going through the records, it is apparent that the name of the petitioner has been mentioned in the FIR and that he was armed with a *danda* but in the FIR, there is no specific attribution of any overt act on the petitioner. Petitioner, as per the evidence of two witnesses as referred to above, has been stated to be present on the spot but without any further action. Petitioner is in custody since 15.10.2018 with the fact that only two prosecution witnesses having been examined out of cited 46 witnesses, the trial is not likely to conclude in near future. Therefore, keeping in view the allegation against the petitioner, his further continuation in jail especially in the prevailing circumstances would not serve any purpose as he has completed more than one year and eight months in custody. Although the cases of the other co-accused have been stated to be listed for hearing on 21.07.2020 but it has been informed by the counsel for the petitioner that

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those cases relate to the persons/accused, who have preferred anticipatory bail after having been summoned under Section 319 of the Code of Criminal Procedure. If that is so, there is no ground for adjourning the present case.

In view of the above, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Charkhi Dadri.

Any observation made herein-above shall have no bearing on the merits of the case during the trial in any manner.

16th July, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No