

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19404-2020(O&M)

Date of decision: 29.07.2020

Deepak

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Amit Choudhary, Advocate for the petitioner

Mr. Chetan Sharma, AAG, Haryana

ANIL KSHETARPAL, J.

The present petition has been filed under Section 438 Cr.P.C for grant of pre-arrest bail to the petitioner in a criminal case arising from FIR No.539 dated 29.10.2019, registered under Section 148, 149, 307, 323, 324, 341, 506 IPC and Section 302 IPC (added subsequently) at Police Station City Fatehabad, District Fatehabad.

The case of the prosecution has been noticed by the learned Additional Sessions Judge, Fatehabad in para 2 of the order, which is extracted as under:-

“2. As per police reply, on 26.10.2019, a telephonic message was received from Control Room, Fatehabad in Police Station City, Fatehabad that Virender Kumar son of Shiv Kumar, resident of Rajiv Colony, Fatehabad was admitted in Civil Hospital,

Fatehabad after receiving injuries in a quarrel. On this, ASI Bhagmal alongwith fellow police officials reached at Civil Hospital, Fatehabad and obtained medico-legal report and medical ruqqa from Police Post Civil Hospital, Fatehabad and presented an application regarding fitness of injured. However, injured Virender Kumar was declared unfit to make his statement. On 27.10.2019, ASI Bhagmal alongwith fellow police officials received an information at 11:00 pm regarding admission of injured Virender Kumar in MAMC, Agroha but proceedings could not be initiated due to odd hours. On 28.10.2019, ASI Bhagmal alongwith fellow police officials reached MAMC, Agroha and sought opinion regarding fitness of injured but the injured was declared unfit to make statement. The injured was also declared unfit for making statement on 29.10.2019. The brother of injured namely Sikender @ Surender Kumar son of Shiv Kumar, resident of Rajiv Colony, Fatehabad was found present near the injured and his statement was got recorded. The complainant Sikender @ Surender has alleged in his statement that on 26.10.2019 at about 09:00 O'clock, he was standing in front of the gate of their house and his brother was coming back to their home after

finishing his work at Anaj Mandi, Fatehabad. Then, his brother Virender Kumar was attacked by four boys namely Sumit @ Katwa, Vasu and Kaddu @ Deepak sons of Sunil Kumar and Sunil Kumar son of Ram Kishan, residents of Rajiv Colony, Fatehabad from back side. The complainant has also alleged that Sumit gave a knife blow on the waist of his brother from back side due to which his brother fell on the ground. Then, Kaddu @ Deepak gave knife blows on the chest and right side of the waist of his brother, whereas, Sunil Kumar struck a stone on the back side of head and waist of his brother. The complainant also alleged that Vasu also gave danda blows on other body parts of his brother. The complainant further alleged that 2-3 other persons also caused injuries to his brother. The assailants caused injuries to his brother with intention to kill him and the assailants on seeing him fled away from the spot alongwith their weapons after threatening his brother that he would be done to death. Thereafter, he had taken his brother to Civil Hospital from where he was referred to MAMC, Agroha. The case FIR was initially registered in the present case under Sections 148, 149, 323, 324, 341, 307, 506 of IPC. On 01.11.2019, a telephonic message was received from control room, Fatehabad

that injured Virender Kumar had died in MAMC, Agroha during treatment due to injuries received in the occurrence. Therefore, Section 302 of IPC was added in the present case.”

Reply to the petition has been filed by way of affidavit of DSP City Fatehabad.

Learned counsel appearing for the petitioner contends that the alleged incident is recorded in the CCTV footage, however, the petitioner is neither found present nor visible. He, hence, submits that the petitioner is sought to be wrongly roped in.

On the other hand, learned State counsel has contended that in the FIR itself, the petitioner has not only been named but is alleged to have given knife blow on the chest and back of the deceased Virender Kumar which stands corroborated by the medical evidence.

This Court has considered the submissions. In the reply filed by the State, it has been stated that no doubt in the CCTV footage, the petitioner is not clearly visible, however, the petitioner has been specifically named in the FIR as well as in the disclosure statement of the main accused Sunil Kumar. It has rather been asserted that the petitioner is the chief conspirator behind the murder of deceased Virender Kumar.

Merely because the petitioner is not visible in the CCTV footage cannot itself be sufficient to prima facie hold that the petitioner is not involved in the incident. Recording in the CCTV would depend upon the angle, range and height of the camera installed. In the First Information Report itself, the petitioner has been specifically attributed a

crucial role.

In view of the aforesaid facts, this Court does not find it to be a fit case to grant concession of pre-arrest bail to the petitioner.

Hence, dismissed. However, needless to say, the observations made by this Court while disposing of the present bail petition shall not be construed to be an expression of opinion on the merits of the case.

29 .07.2020	(ANIL KSHETARPAL)
rekha	JUDGE
Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No