

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

**CRM-M No.24086 of 2020 (O&M)
Date of Decision: 27.11.2020**

Saikul

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Sanjeev Kumar Bawa, Advocate
for the petitioner.

Mr. Vikrant Pamboo, D.A.G., Haryana.

RAJ MOHAN SINGH, J.

[1]. The case was taken up for hearing through video conferencing.

[2]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.397 dated 14.05.2019, registered under Sections 148, 149, 302, 307, 365 IPC and Section 25 of the Arms Act (Sections 54 and 59 of the Arms Act added later on) at Police Station Nuh, District Nuh, Haryana.

[3]. The present FIR was registered in respect of murder of Sapat. Present case has some connectivity with FIR No.396 dated 14.05.2019, under Sections 148/149/323/364/285/452

IPC and Sections 25-54-59 of the Arms Act (Section 302 IPC added later on) P.S. Nuh, District Mewat which was registered at the instance of the petitioner. The said FIR was registered in respect of kidnapping and murder of Sakir. During the process of kidnapping of said Sakir, Sapat fell down from the vehicle. He was tied with the ropes at the Chowk and police was informed. Sapat died on that very day on account of injuries on his person and the present FIR was registered by Deenu on 14.05.2019 itself.

[4]. As per prosecution case, nephew of the complainant Deenu namely Sapat had constructed a pond in the village for fish farming. He started residing at the pond. On 13.05.2019 at about 11.00 P.M., Sapat was at the pond. The accused namely Faku, Istak, Sakir s/o Imrat @ Lala Ji, Jahal, Rijju, Sakir s/o Nabba, Nabba, Saikul, Shakeel, Mehmood, Khutta, Rukmudeen s/o Sappa, Suka @ Sadeek, Kalu @ Jumma, Khursheed, Rukmuddin s/o Aasan, Ramjan, Saheed s/o Aasam, Liyakat, Aalim, Hasmal, Bhuttu, Arsheeda, Saheed s/o Fajru, Rafki, Tahir and Sakir s/o Noor Mohammad in connivance with each other carrying weapons i.e. pistols, revolvers, *lathis*, *dandas* and *farsas* took away Sapat from the pond and gave beatings to him. Sapat was given deep injuries. When the aforesaid persons were carrying Sapat towards village, he made hue and

cry. On hearing, hue and cry of Sapat, the complainant and his brother Kallu came out of their houses and they saw the aforesaid persons were taking away Sapat after giving beatings to him. The complainant and his brother tried to save Sapat, then Faku s/o Aasam fired a shot towards the complainant from his country made pistol. The complainant survived with a difficulty. His brother was fired upon by Istak s/o Isa from country made pistol and he also survived with great difficulty. Sakir, Jahul, Rijju, Saikul s/o Nabba and Sakeel inflicted *lathi* blows to the nephew of complainant. Mehmood, Kalu @ Jumma, Rukmudeen, Khutta @ Salmudeen and Sappa inflicted iron rod blows on Sapat. Rukmuddin s/o Aasam, Ramjan, Liyakat, Aalim and Bhuttu gave beatings to Sapat with *dandas*. Tahir, Sakir, Sahid son of Fajru and Raffi gave beatings to Sapat with *Farsas*. When the complainant went to rescue Sapat, then Shabnam wife of Deenu and other family members attracted to the spot, but they could not rescue Sapat from the aforesaid accused. Police took away Sapat from the aforesaid accused persons and Doctor declared him dead.

[5]. Learned counsel for the petitioner submitted that the aforesaid FIR is the counter blast to FIR No.396 dated 14.05.2019 which was registered in respect of kidnapping and murder of Sakir by the petitioner himself. Present FIR is the

cross case. The brother of petitioner was kidnapped by the present complainant-party. There is no specific allegation against the petitioner viz.-a-viz. the attribution. Petitioner is alleged to have given *lathi* blows on the person of Sapat along with others. *Lathi* has been recovered from the petitioner. Brother of the petitioner was kidnapped by the complainant and other co-accused in the connected case including the deceased Sapat. While running away in a vehicle, Sapat fell down from the Vehicle. He suffered injuries and ultimately succumbed due to those injuries.

[6]. Learned State counsel on the other hand opposed the prayer for grant of regular bail on the ground that petitioner was also a member of unlawful assembly, who participated in commission of offence by tying Sapat with rope at the Chowk and gave *lathi* blows on the person of Sapat.

[7]. Having heard learned counsel for the parties, I am of the *prima facie* view that at this stage number of injuries on the person of Sapat would remain debatable vis-a-vis. the complicity of the petitioner from whom a *danda* has been recovered. It is a case of version and cross-version. Both the FIRs have been registered on 14.05.2019 in the same Police Station. Petitioner is in custody since 15.05.2019. No prosecution witness has been examined so far. Trial of the case may take some time in

its culmination due to the situation arising out of COVID-19 pandemic.

[8]. At this stage, without meaning anything on merits of the case and in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail.

[9]. In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

[10]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

November 27, 2020
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No