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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M No.32722 of 2020

Date of Decision: 28.10.2020

HASAN MOHD

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

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

Present: Mr. Jitender Dhanda, Advocate  
for the petitioner.

Ms. Deepshikha Chauhan, Asstt. A.G., Haryana.

Mr. Talim Hussain, Advocate  
for the complainant.

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**RAJ MOHAN SINGH, J.(Oral)**

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.204 dated 09.11.2019, registered under Sections 148, 149, 323, 324, 452, 285, 302 IPC and Section 25 of the Arms Act at Police Station Bicchor, District Nuh.

FIR was registered at the instance of Harun son of Abdullah (deceased) against nine accused including the petitioner. During investigation three of the accused namely Arshida, Akbari and Mohd. Rashid have been found to be innocent.

The occurrence took place on 06.11.2019, when father of the complainant along with his younger brother Sahid were

sleeping in front of under-constructed house near the main gate. At about 10/10.30 P.M., all the accused duly armed with weapons opened attack on the father of complainant and gave him merciless beatings. The accused gagged the mouth of brother of the complainant Sahid. On hearing alarm, Sajid son of Yaqub and brother of the complainant namely Talid attracted to the spot and saw that Siraju was armed with *Kulhari*. Mohammad was armed with *Pharsa*. Yahya was armed with a rod. Habib was armed with a *Lathi*. Petitioner, Akbari, Noor and Arsida were armed with *lathi(s)*. Brother of Siraju was having countrymade pistol, who fired upon brother of the complainant namely Talid. Thereafter, accused-party left the place. The complainant and his brother-in-law namely Iqbal reached the spot and found that his father was lying in a pool of blood. He was shifted to CHC Punhana and thereafter he was referred to Nalha. From there, he was referred to Delhi. The then injured was taken to LNJP Hospital, Delhi. The complainant further alleged that before his death in the Hospital his father narrated the incident to him. After two hours, his father died on 08.11.2019.

Learned counsel for the petitioner submitted that the complainant was not present at the time of occurrence. Admittedly, he along with his brother-in-law Iqbal reached at the spot later on. At the most Sajid and Talid allegedly saw the occurrence, but they have not come forward to lodge the FIR. Their statements, if any, recorded under Section 161 Cr.P.C., were not available at the time of registration of the case. The case was registered only on the basis of alleged hearsay from father, who never gained consciousness after the occurrence. When the police reached CHC Punhana and obtained the MLR of injured Abdulla, then Iqbal, whose mobile number was mentioned in

the MLR, informed the Police that injured Abdulla was his father-in-law and was not in a fit condition to get his statement recorded before the Police.

Learned counsel further submitted that there is no material available with the Police to show that Abdulla was ever declared fit by the doctor to make statement at any point of time before his death. A *danda* has been recovered from the petitioner. The alleged blood-stains on the *danda* have not been found to be conclusive as those were too small for serological test.

Learned State counsel duly assisted by learned counsel for the complainant, however opposed the bail on the ground that the deceased received number of serious injuries on his person. Involvement of the petitioner cannot be ruled out. After filing of challan and framing of issues, no prosecution witness has been examined so far. Petitioner is in custody since 07.11.2019.

Petitioner was shown armed with *danda*. The allegations are that all the accused inflicted injuries to the father of the complainant. The complicity of the petitioner would remain debatable as the exact part attributed to the petitioner is yet to be ascertained. Recovery of *danda* from the petitioner with some blood-stains would remain debatable as serological test could not confirm human blood conclusively.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

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.

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

October 28, 2020

*Atik*

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)  
JUDGE

Yes/No

Yes/No