

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

CRM-M-38862-2019 (O&M)

Date of decision: 09.07.2020

Vishal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Deepak Vashishth, Advocate for the petitioner.

Mr. Apoorv Garg, DAG, Haryana.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner Vishal, an accused in FIR No.88 dated 12.06.2018, for offences under Sections 148, 149, 323, 302 and 120-B of IPC, registered with Police Station Bass, Tehsil Hansi, District Hisar.

Briefly stated facts of the case as per prosecution story are that a criminal machinery in this case was set into motion by complainant Naveen son of Ramesh Kumar, resident of Ugalan, aged about 21 years, in which, he stated that on 31.05.2018 at about 5/6 PM, while he was present at Vidhay Academy, Village Ugalan, then he heard noises coming from the side of metalled road. He was about to move in that direction then Bijender son of Sube Singh and Jai Singh son of Prithvi Singh, his paternal uncles in relations who were doing work on JCB also arrived

there and they all went towards the place from where the noises were coming. He saw that his father Ramesh Kumar was being assaulted by Krishan @ Kala son of Umed, Jat, resident of Ugalan having an iron rod, Jagdish and Rajesh sons of Umed, Jat, resident of Ugalan having iron rods along with Joginder having an iron rod, Mandeep @ Jehri son of Dayanand, Jat, resident of Igra, having an iron rod, Sonu of Khandakheri having iron rod, Kapil son of Parkash and Dashrath, residents of Ramkali, having iron rods, Sanjay son of Dharavir, Jat, resident of Bhaklana, having an iron rod. His father was raising alarm. He had suffered extensive injuries. On arrival of complainant along with his two uncles aforesaid at the spot, the assailants ran away from the place of occurrence along with their weapons in vehicle No.HR-31L-5345 Scorpio and two motorcycles. The injured was taken to Bal Dharmarath Hospital at Jind, where he was given first aid and admitted. However, on 01.06.2018, the injured was referred to hospital at Hisar. He was taken to Sapra Hospital, Hisar and admitted there. Subsequently, he succumbed to the injuries. The accused were arrested in this case.

Accused Vishal had moved a petition for regular bail before Court of Sessions at Hisar, however, his said petition was dismissed by Addl. Sessions Judge, Hisar, vide order dated 22.07.2019. As such, he has approached this Court praying for grant of similar relief.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has contended that the petitioner is not named in the FIR; he is in custody since 30.08.2018; this

case has been wrongly planted upon him; the alleged recovery of iron rod effected from him by the police is also fake and manipulated. The disclosure statement given by co-accused Sonu dated 30.08.2018 naming the present petitioner is inadmissible in evidence. As a matter of fact, the petitioner was not present at the spot even. Therefore, he be granted the concession of regular bail.

Whereas, request is being opposed vehemently by learned State counsel.

After hearing the rival contentions, I find that though in the FIR, the petitioner is not named therein but FIR may not contain the details of an incident. The mere purpose of lodging an FIR is to set the criminal machinery in motion. It is only during the investigation of the case after recording of the FIR, it can be determined as to how the offence was planned and committed; the persons who had taken part in the incident; the role played by each one of the several accused. The petitioner cannot take advantage of the fact that his name is not mentioned in the FIR. As far as name of the petitioner having cropped up in statement of co-accused Sonu, the same could certainly be taken into consideration by the investigating agency as providing lead in the investigation to find out the involvement of all the persons including the present petitioner in the incident. The petitioner is said to have got iron rod recovered from his possession. In that way, he is connected with the incident. There is nothing on record to show that the investigating agency had any motive to involve the accused in this case falsely. The police during the course of investigation had found sufficient evidence against

him to prove his involvement in the case; for that reason he along with his co-accused have been sent up to face trial.

The various contentions raised by learned counsel for the petitioner like there being delay in reporting the matter to the police; petitioner being not named in the FIR; the petitioner having been nominated in statement of co-accused Sonu; the confessional statement said to have been made by the petitioner being inadmissible in evidence etc. may be relevant for the purpose of determining the guilt of the accused on conclusion of trial but not at this stage to find out the entitlement of the petitioner for grant of regular bail. The challan against the accused has been filed. His guilt shall be determined during the trial. The material witnesses are yet to be examined. The apprehension expressed by the State counsel that if granted bail, the petitioner may try to threaten and intimidate the prosecution witnesses or even abscond cannot be brushed aside lightly. Thus, finding no merit in the instant petition, the same stands dismissed.

09.07.2020

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(H.S. MADAAN)
JUDGE

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