

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

**CRM-M-4535-2021 (O&M)
Date of decision: 26.07.2021**

Aman

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Kulvir Narwal, Advocate
for the applicant-petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

CRM-20308-2021

Prayer in this application is for preponing the date of the main case which is fixed for 02.09.2021.

For the reasons stated in the application, the same is allowed.

Let the main case be preponed and taken up today itself.

CRM-M-4535-2021 (O&M)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 187 dated 23.03.2018, registered under Sections 148, 149, 323, 341, 325, 506, 302, 120-B of the IPC at Police Station Sadar, Bahadurgarh, District Jhajjar.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant Ashok

Kumar, it is stated that on 22.03.2018, he was sitting in front of his house and his grandson Sarthi was playing in the street. In the meantime, his neighbour co-accused Sunil came on a cycle and frightened his grandson. On this, his son Nikesh told Sunil to ride the cycle carefully, however, he started fighting with Nikesh. Thereafter, he came with co-accused Kirshan and Birpal and threatened that why they have admonished Sunil and thereafter they went away. Thereafter, Sunil, Anil, Amit, Mukesh threw brick bats towards the complainant's side and the complainant along with his son Omvir came to Police Post for reporting the case. When the complainant reached in front of the house of Pappal Prajapati, then Amit, Sunil, Anil, Pawan, Ankit, Kirshan, Kamlesh were standing there carrying pipes and rods in their hands. In the meantime, sons of the complainant, namely Nasib and Nikesh, and nephew Pawan came on the motorcycle. Kirshan stopped all of them and stated that they will be taught a lesson for admonishing Sunil. They all started giving beatings to complainant's side with pipes and rods. They caused multiple injuries to Nasib, Nikesh and Pawan. On seeing the fight, complainant's uncle Krishan and others reached there and thereafter, all the accused persons ran away. Later Nikesh died due to injuries caused by accused.

At the very outset, learned counsel for the petitioner submits that petitioner is not named in the FIR and his brother Ankit was named. It is further submitted that since Ankit was on duty at the time of incident, he was exonerated during investigation, however, he has again been summoned under Section 319 Cr.P.C.

Learned counsel further submits that the name of the petitioner

has surfaced in the statement of other witnesses as they could not involved Ankit as he was not present at the spot at the time of incident.

Learned counsel for the petitioner refers to the statement of PW-1/complainant Ashok Kumar, who, while deposing in Court, has named the both, the petitioner and his brother Ankit, though he has not named the petitioner in the FIR. Learned counsel, thus, submits that complainant has made improvement in his statement. The counsel has referred to the statement of PW-2-Pawan, who has stated that petitioner Aman was present at the spot, but no specific injury is attributed. The counsel further referred to the statement of PW-6-Nasib, who stated that petitioner was armed with an iron rod, which is not stated either by PW-1-Ashok or PW-2-Pawan. It is thus argued that there is variance in the version given by all three PWs.

Learned counsel further submits that injured witnesses Pawan and Nasib have already been examined and the petitioner, who was 19 years of age at the time of incident, is in judicial custody since 14.04.2018 i.e. more than 03 years and his entire future is at stake.

Learned counsel for the petitioner further submits that it will be a matter of trial whether petitioner Aman was present at the spot or not, therefore, he is entitled to get the concession of regular bail.

Learned State counsel, on the basis of the contents of the FIR, could not dispute that petitioner was not named in the FIR and submits that though Ankit was exonerated by the police, however, he has again been summoned under Section 319 Cr.P.C.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering

the fact that petitioner is in long custody; he was not named in the FIR; his brother was named and exonerated by the police and now has been summoned under Section 319 Cr.P.C.; complainant, while appearing as PW-1, has made improvement qua this fact by mentioning that petitioner was also present at the spot and in view of variance in the statements of all PWs, I deem it appropriate to enlarge the petitioner on regular bail.

Accordingly, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

26.07.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No