

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.5299 of 2021 (O&M)

Decided on: 11.02.2021

Vishal

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Vishal Garg Narwana, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.58 dated 26.09.2019, for offence punishable under Sections 147, 148, 149, 302, 323 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station GRP Jind, District Ambala Cantt.

Counsel for the petitioner has relied upon the order dated 03.12.2020 passed in CRM-M No.39856 of 2020. The operative part of the said order reads as under:-

“Learned senior counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant Shivam, it is stated that on 25.09.2019, in the evening, petitioner Satnam Singh had telephonically called his brother Harjit @ Jeeta that some fight has took place on 23.09.2019 regarding driving of motorcycle by Ankit and Vishal. Some settlement is to be arrived at, for which they will come to the railway station. Upon this, Harjit, complainant, Ankit and brother-in-law of the complainant Amit @ Meeru reached at Paleti.

There, Vishal, Sonu both real brothers, Jobin, Nitin and one boy, whose name is not known, were standing. On reaching, all six boys suddenly attacked Harjit @ Jeeta. Sonu gave poker blow on head and neck of Jeeta, Jobit hit with punch, Vishal hit with rod and rest of three caught hold of Harjit @ Jeeta and gave kick and fist blow to over power him. Thereafter, Sonu attacked the complainant with poker on his left wrist and finger. In defence, the complainant side also attacked them by picking stones from railway track and in the meantime, they fled away from the spot. Harjit became unconscious and taken to the hospital, where he was declared dead.

Learned senior counsel for the petitioner further submits that except for the allegations that the petitioner has given a telephone call to the complainant side to come at the railway station for effecting some compromise, there is no evidence, as it is case of the prosecution that the petitioner was not present at the spot. It is further submitted that the investigation is complete and during the investigation, no call details of the petitioner with the deceased has come on record, as same is not part of the report under Section 173 Cr.P.C. It is also submitted that the petitioner is in custody since 29.09.2019; charges have been framed, however, out of 20 PWs, none has been examined so far.

Learned State counsel has not disputed the factual position that in the challan, there is no document referring to the investigation qua call details of the petitioner with deceased.”

Counsel for the petitioner has submitted that the petitioner is in long custody and till date no prosecution witness has been examined.

Counsel for the petitioner has further submitted that the allegations against the petitioner are that he caused an injury with a rod, however, the fatal injuries are attributed to co-accused of the petitioner namely Sonu, who with the help of a Poker caused 02 injuries to the victim. Counsel for the petitioner, lastly, has submitted that even another co-accused of the petitioner namely Nitin has been granted the

concession of regular bail vide order dated 07.01.2021 passed in CRM-M No.43804 of 2020.

Counsel for the State has not disputed the factual position but opposed the prayer for bail on the ground that as per the allegations in the FIR, it is the petitioner – Vishal, who had an altercation with Ankit on account of driving of a motorcycle, however, it is not disputed that no prosecution witnesses has been examined till date.

Without commenting anything on merits of the case, considering the fact that 02 of the co-accused of the petitioner have already been granted the concession of regular bail; the petitioner is in custody since 13.10.2019; no PW has yet been examined; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

11.02.2021

yakub

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No