

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-7336-2021 (O&M)
Date of Decision:- 20.9.2021

Vinod @ Bholi

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Amit Choudhary, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Laxmi Narayan.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in a case registered vide FIR No.192, dated 21.3.2019, Police Station Camp Palwal, District Palwal, under Sections 341, 302, 34 IPC.
2. The FIR was lodged at the instance of Laxman wherein it is alleged that at 10 am. on 21.3.2019 Udham had come to their house and had taken the complainant's brother Subhash along with him for playing Holi. At about 4 pm. the complainant came to know that somebody

had given blows with knife to Subash and that he had been taken to hospital where he has died. Upon making enquiries, the complainant came to know that Kalu, Udham, Dinesh, Rupinder, Suhsil and Manoj had been playing Holi in the plot of Kalu, but had later quarreled on account of which Dinesh had sustained an injury on his foot. Subhash got Dinesh admitted in hospital. When Subhash and Manoj were proceeding to house of Dinesh for getting money for his treatment, then they were waylaid by Udham who was accompanied by 3-4 other persons. Udham is alleged to be carrying a 'knife' while others were carrying 'sticks' and 'rods' in their hands. Udham gave a blow with 'knife' on the chest of Subhash while one of the unknown persons gave 2-3 blows of 'knife' on the back of complainant's brother after taking the knife from his pocket. The others are also alleged to have caused injuries with 'rods' and 'sticks'.

3. Learned counsel for the petitioner has submitted that he is nowhere named in the FIR and has been nominated as an accused on the basis of a disclosure statement made by Udham wherein he has stated that he along with his brothers namely Mehtab and Vinod had waylaid Subhash and had inflicted injuries to him. In the said disclosure statement he has stated that while his brothers caught hold of Subhash, he gave two blows with the 'knife' on the back of Subash and one blow on his chest and one more blow on his back. Learned counsel has further submitted that the other piece of evidence that the prosecution relies upon is the confessional statement of the petitioner

himself wherein he has admitted that he had given a fist blow and had also caught hold of the deceased while others inflicted injuries.

4. Learned counsel has submitted that although as per FIR one Manoj was also present along with the deceased at the time of occurrence but interestingly he has nowhere been cited as a witness which goes to show that a false case has been planted against the accused.
5. Opposing the petition, learned State counsel has submitted that since there is a disclosure statement made by co-accused nominating the petitioner as an accused and in fact the petitioner himself has also suffered a confessional statement, no case for grant of bail is made out. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 1 year and 10 months and that he is not involved in any other case.
6. I have considered rival submissions addressed before this Court.
7. Having regard to the fact that the petitioner is not named in the FIR and the only evidence against him is in the nature of a disclosure statement made by co-accused and a confessional statement made by the petitioner himself, the admissibility of which would be debatable and while also noticing that even as per the said statement it is the co-accused who had inflicted the injuries with a 'knife', the complicity of the petitioner would certainly be debatable. The petitioner in any case has been behind bars since the last about 1 year and 10 months and is stated to be having a clean record. In fact on an earlier occasion when he was granted interim bail to attend the marriage of his sister, he is stated to have surrendered back in time. In these

circumstances, when the conclusion of trial is likely to consume time as not even a single PW out of the cited 19 PWs has been examined so far, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.9.2021
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(GURVINDER SINGH GILL)
JUDGE

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