

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

CRM-M-10547-2021 (O&M)
Date of Decision:- 13.9.2021

Rajbir ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kartar Singh, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Naresh Kumar.

(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.42, dated 16.7.2020, Police Station GRP, Hissar, District Hissar, under Sections 147, 148, 149, 307 IPC and Sections 25/54/59 of Arms Act (Sections 302 and 326 IPC added later on).
2. The FIR was lodged at the instance of Neeraj wherein it is alleged that on 16.7.2020 at about 12.30 am (early morning) when he along with his brother Dharminder was returning back home after having attended a party, they saw that Kamal, Gaurav, Raman, Arjun, Jambo and 2-3 other persons who were armed with sharp edged weapons

like sword, *gandasi* and knife were inflicting injuries to Shamsher and Pawan. When the complainant and his brother intervened, the said persons attacked them as well. The complainant managed to escape but shortly thereafter the accused also ran away from the spot. Thereafter, when he returned back to the spot, some other persons had also gathered and he with the help of the said persons got admitted Shamsher, Pawan and Dharminder in CMC Hospital, Hisar.

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 alleged to have been made by co-accused Kamal. Learned counsel has referred to the said disclosure statement of Kamal placed on record as Annexure P-4 and a perusal of which would show that although the petitioner is named therein but he is shown to be empty handed and a general allegation that he along with Raman, Sunny and Raman Pipra who were all empty handed and had given beatings to Shamsher and Pawan with fist blows and later had also pelted stones and brick bats.
4. Learned counsel for the petitioner has submitted that the disclosure statement of the co-accused would hardly carry any evidentiary value and in the absence of any other corroborative evidence cannot be relied upon or acted upon. It has further been submitted that in any case, even as per the FIR the petitioner is unarmed and cannot be attributed any *mens rea* to launch any murderous assault.
5. Opposing the petition, learned State counsel has submitted that since a co-accused named in the FIR had specifically nominated the

petitioner as a co-accused, no case for grant of bail is made out.

Learned State counsel has however, informed that the petitioner is behind bars for the last about 1 year and 2 months and that he is not involved in any other case.

6. I have considered rival submissions addressed before this Court.
7. It is not in dispute that the petitioner is nowhere named in the FIR. He had been nominated on the basis of disclosure statement, the admissibility of which would be debatable. Even as per the said disclosure statement, the petitioner is unarmed although general allegations have been levelled against him that he had also given beatings. The petitioner has been behind bars for a substantial period of 1 year and 2 months and is stated to have a clean record. In these circumstances, further detention of the petitioner will not serve any useful purpose as till date not even a single PW out of the cited 23 PWs has been examined. 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.

13.9.2021

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No