

209

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.10760 of 2021 (O&M)

Date of decision: 29.04.2021

Sunny @ Mota

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Suneel Ranga, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, 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.637 dated 27.07.2020, for offence punishable under Sections 148, 149, 302, 120-B of the Indian Penal Code, 1860 (in short 'IPC') (Sections 323, 341 IPC added later) registered at Police Station Panipat City, District Panipat.

Counsel for the petitioner has relied upon the order dated 13.01.2021 passed in CRM-M No.929 of 2021, vide which the co-accused of the petitioner namely Darshana @ Bunni was granted the concession of regular bail. The operative part of the said order, reads as under:-

“Counsel for the petitioner has relied upon the order dated 14.12.2020 passed in CRM-M No.40831 of 2020 vide which one of the co-accused of the petitioner namely Prem @ Goga, was granted the concession of regular bail by passing the following order:-

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“Counsel for the petitioner has submitted that as per the version given in the FIR registered at the statement of Pritam Singh, he received an information that his nephew Manpreet @ Sonu is lying in an injured condition near Tau Devi Lal Complex Gali near Sai Tower. His nephew was working in an A.C. shop. It is further stated in the FIR that the complainant, at his own, found that initially Anil, Aashu, Vicky and Suraj residents of Jagjeevan Ram Colony Panipat, came on a Scooty and had a fight with Manpreet @ Sonu yesterday night at Mahabir Colony. Thereafter, Sunny, Ajay, Golu and Prem @ Goga (petitioner), Deepak, Suman, Darshana, Ashok and some other persons came on their motorcycles armed with sticks and attacked Manpreet @ Sonu with intention to kill him, which led to his death.

Learned counsel for the petitioner has submitted that after registration of the FIR, police has recorded a supplementary statement of complainant – Pritam Singh, in which he has stated that he has a DVD/video clipping regarding the incident, when his nephew Manpreet @ Sonu was murdered. It is stated in the statement dated 29.07.2020 that accused can be seen attacking his nephew Manpreet @ Sonu. Learned counsel for the petitioner has argued that in fact, there was two incidents which have come in the disclosure statements of main accused Aashu @ Sahil, Anil @ Nilu and Sunny. Counsel has referred to their disclosure statements, wherein they have stated that on 26.07.2020 at night, as per their plan, they were proceeding to the A.C. shop of Manpreet @ Sonu and along with them, there were nine other persons including petitioner Prem @ Goga. When they reached there, Manpreet @ Sonu and five of his friends were going after closing the shop, accused persons attacked them, on which Manpreet @ Sonu and his friends ran away from there. It is further stated in the disclosure statements of these accused that four of them i.e. Aashu @ Sahil, Anil @ Nilu, Sunny and Vicky stayed there with intention to kill Manpreet @ Sonu and they conspired together and prepared a plan that they will go on a scooty to find him. Thereafter, they found Manpreet @ Sonu

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running near Tau Devi Lal Complex Gali near Sai Tower and all of four followed him on scooty and hit him with sticks and caused injuries, due to which he loss his consciousness.

Learned counsel for the petitioner has argued that in fact, there were two incidents, the petitioner along with nine other persons were referred to as accused in the first incident, when deceased – Manpreet @ Sonu ran away and in the second incident, four persons named above caused him fatal injuries. Learned counsel further submitted that even the place of both the incidents are different. It is further argued that the petitioner is nowhere seen in the CCTV/video footage, which is submitted by the complainant while giving his supplementary statement and therefore, presence of the petitioner at the spot is highly doubtful. Counsel has lastly argued that even, while submitting the report under Section 173 (2) Cr.P.C., the police has submitted the challan against the petitioner under only Sections 148, 149 and 323 of IPC.

In reply, learned State counsel has not disputed the factual situation, however, submitted that mere mentioning of sections while submitting the challan, may not be relevant at that stage as the same are to be seen at the time of framing of the charge.

After hearing the learned counsel for the parties and considering the submissions made by them, I find it to be a fit case to grant concession of regular bail. Thus, 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/Illaq 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.”

Counsel for the petitioner has further submitted that as per allegations in the FIR, 04 male persons i.e. Ashu @ Sahil, Anil @ Nolu, Sunny @ Nota and Vicky were there, who caused the injuries to the

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deceased Manpreet @ Sonu. It is also submitted that the petitioner was allegedly name in the first incident and was not even present when the second incident took place when the injuries were caused to the victim. It is further argue that the petitioner is a household lady and is not involved in any other case.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is further submitted that total 09 accused stands arrested out of which challan presented against 06 persons under Sections 148, 149 and 323 IPC whereas challan against Ashu @ Sahil, Anil @ Nolu and Sunny @ Nota has been submitted under Section 302, 120-B, 148 and 149 IPC. It is also argued that the petitioner is not named in the second incident and also submitted that the allegations of conspiracy are there against the accused.”

For the sake of brevity, the facts are not reproduced again.

Counsel for the petitioner has submitted that there are 02 accused named Sunny in the case. The petitioner Sunny @ Mota, is the son of Lachhman whereas another accused Sunny, who is the son of Madan were present along with 03 other accused persons, who have caused fatal injuries as per the affidavit of the SHO, Police Station City Panipat.

Counsel for the petitioner has also submitted that even subsequently, 02 more accused namely Deepal and Ajay @ Naresh, were also granted the concession of regular bail vide order dated 23.02.2021 passed in CRM-M Nos.43278 of 2020 and 3019 of 2021.

Counsel for the State has not disputed the factual position as it has come in the affidavit that 04 persons namely Sunny son of Madan, Aashu @ Sahil, Anil @ Nilu and Vicky had caused fatal

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injuries to deceased Manpreet @ Sonu in the subsequent occurrence.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 02 months and 14 days; the co-accused of the petitioner is already released on bail; the petitioner is not involved in any other case; 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/Illaq 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

29.04.2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No