

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

Criminal Misc. No.M-16932 of 2021(O&M)

Date of Decision: August 10, 2021

Shahrukh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Pawan Kumar Hooda, Advocate
for the petitioner.

Mr.Vishal Malik, DAG, Haryana.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.129 dated 13.11.2019 under Sections 323/34/506 IPC and later on added Section 302/120-B IPC, Police Station Bapoli, District Panipat.

The FIR was registered on the statement of Mamtesh wife of Beerbhan (deceased), She stated that Leela son of Natha Ram had been continuously calling her husband Beerbhan on 12.11.2019 during night from 3.46 am till 6.03 am. In the morning at about 6.00 am her husband got a call on his number 9729931818 from accused Leela Ram's mobile No.8685826099 calling him near the passage '*patri*' of river. Her husband

told her that he has been called by Leela and four persons for work. He was going as Leela would provide him work from four persons. The complainant followed her husband and saw that Leela along with four persons was beating her husband due to which her husband started bleeding from the head. She stated that Leela along with the other persons attempted to kill his husband. The other accused were known to Leela and he had brought them there. Initially, the case was registered u/s 323, 506, 34 IPC. The injured Beerbhan was admitted in Prem Hospital, Panipat. He was not in a fit condition to record his statement. He died on 25.11.2019 while undergoing treatment at Apex Hospital Panipat. Then offence u/s 302 was added.

After his death supplementary statement of the complainant was recorded wherein she stated that the persons who caused injuries to the deceased were Shamsad alias Sonu, the petitioner and Rekha wife of Sushil. She stated that she had come to know that Rekha had developed illicit relations with Shamsad @ Sonu. They were seen in a compromising position by Beerbhan and Leela who were blackmailing her. Due to the grudge Rekha had got the deceased murdered by Shamsad, the petitioner and Nazim by causing injuries. Accused Shamsad, the petitioner, Nazim and Rekha were arrested. Accused Shamsad got recovered a motorcycle and a wooden stick which was allegedly used in the incident. Petitioner and Nazim also got recovered wooden sticks. Case material was sent to FSL. On the basis of the investigation Leela was found innocent. Challan was presented against Shamsad, the petitioner, Nazim and Rekha. The investigation concluded that

deceased Beerbhan had been blackmailing Rekha to get sexual favour from her, as Beerbhan had knowledge of her illicit affair with one Shamshad. Rekha had called her paramour to eliminate Beerbhan.

Ld. Counsel for the petitioner has argued that the name of the petitioner was not mentioned in the FIR. The person alleged to be the main accused in the FIR, namely Leela, had been declared innocent by the Investigating Agency. Rather, he was projected as eye-witness of the alleged occurrence. It is further submitted that the complainant and Leela have not supported the prosecution case and were declared hostile. Thus there is no evidence against the petitioner..

Having heard Ld. Counsel for the petitioner and going through entire material on record I do not feel that this is a fit case for grant of bail at this stage.

No doubt the complainant and Leela have turned hostile. However, they have been extensively cross examined by the Ld. Public Prosecutor and confronted with their previous statements where they had specifically implicated all the accused including the petitioner. The complainant admitted her signatures on the application P-3. She however stated that her signatures had been taken on blank papers. It would be for the trial court to assess the credibility of these witnesses and come to a conclusion on an appraisal of the entire evidence. It has also come out that one material witness for the prosecution namely Dharam Singh brother of the deceased is yet to be examined.

No doubt the petitioner is in custody since 26.11.2019, but in

view of the totality of the facts and circumstances that of itself can be no ground for grant of bail.

Accordingly this petition is dismissed at this stage.

Nothing stated herein shall be construed as an expression of opinion on the merits of the case.

August 10, 2021

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No