

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

Sr. No. 219(1)

CRM-M No. 12890 of 2020 (O&M)

Date of decision : 08.04.2021

Ajit @ Sonu and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Gaurav Jain, Advocate for the petitioners.

Mr. Rupinder Singh Jhand, Addl. A.G., Haryana.

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DEEPAK SIBAL, J. (Oral)

The matter has been taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No. 07 dated 26.01.2020 under Sections 148, 149, 302, 323 IPC [Section 325 IPC and Section 3(1)c of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short – the SC & ST Act) added later on] registered at Police Station Bhatu Kalan, district Fatehabad.

Briefly stated, the case of the prosecution is that Kamal son of Ram Niwas Mhavar filed a complaint with the police that on 25.01.2020, on the occasion of birth of his son, they were having Puja ceremony in their house; in the night, at about 10:30 p.m., after the ceremony was over, Rahul, Dholu, Monu, Dhriraj, Surender and Vikas came to his house without any invite; when their entry was objected to by the complainant, a

quarrel started; Rahul attacked the complainant's maternal grandfather and gave a brick blow on his chest, resulting in his fall on the ground; the complainant's maternal grandfather then became unconscious and was taken to a hospital, where he was declared dead and that Sonu and Ravi who are related to the complainant also received injuries in the aforesaid quarrel.

Learned counsel for the petitioners contends that the petitioners have been falsely implicated in the case; complainant Kamal while appearing before the Trial Court as a witness for the prosecution has specifically deposed that his maternal grandfather fell down on his own and hurt himself leading to his death; Sonu who was allegedly injured in the alleged incident has also deposed on the same lines as Kamal; there is no other criminal case in which the petitioners are involved; the petitioners are in custody since January 2020; since the official prosecution witnesses are remaining to be examined, the petitioners are not in a position to influence them and that the petitioners' trial will take a long time to conclude.

Learned State counsel admits to the fact that the complainant and one of the injured Sonu, while appearing before the Trial Court as prosecution witnesses have turned hostile but opposes the grant of regular bail to the petitioners on the ground that there is still enough evidence with the State to convict them for the charges of murder as also under the provisions of the SC & ST Act.

The eye witness-Kamal/complainant and one of the injured-Sonu, while appearing before the Trial Court as witness for the prosecution have specifically stated that none of the accused caused any injury to the deceased and that the deceased died due to falling down on the road by himself.

The above developments have caused a huge dent in the prosecution's case.

In view of the above and because the main allegations are against co-accused Rahul, this Court is of the opinion that no useful purpose would be served in any further incarceration of the petitioners. Accordingly, the present case is considered to be a fit one in which the petitioners be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Fatehabad, the petitioners are directed to be released on bail.

A perusal of the FIR reveals that therein the complainant-Kamal had made specific allegations of injuries given by the accused to his maternal grandfather leading to his death as also that specific roles had been attributed to the accused. However, while appearing before the Trial Court he has given all the accused a clean chit.

That being so, the State, after examining the above is directed to proceed against the complainant for lodging a false FIR, in accordance with law.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

08.04.2021
sunil yadav

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No