

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

CRM-M-18119-2021 (O&M)
Date of Decision:-20.5.2021

Khushal @ Happy

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. S.K. Tripathi, Advocate for the petitioner.

Mr. Dhruv Sheoran, DAG, Haryana.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in a case registered vide FIR No.211 dated 21.5.2019 at Police Station Kurukshetra University, District Kurukshetra under Sections 148/149/323/341 and 506 of Indian Penal Code, wherein offences under Sections 302 and 216 IPC were added later on.
2. The FIR was registered at the instance of Aditya Sharma wherein it is alleged that on 20.5.2019 he alongwith his friend Anish Bansal had gone to take their examination in Pharmacy Department, Kurukshetra University. After the examination, when he alongwith his friend Anish Bansal started back on their motorcycle, they were waylaid by Khushhal, who was accompanied by Ganga Gaba, Monu Malik @ Wazir, Rajesh Ajrawar, Mukesh Saini, Nitesh

Chahal, Mayank Safidon and 3-4 other boys who were all armed with 'sticks', 'bindas' and 'rods'. Khushhal gave a blow with 'binda' on the head of Anish and also caused injuries to the complainant. Gagan Gaba is also alleged to have given a blow with 'binda' on the arm as well as on the head of Anish. Monu Malik, Mukesh Saini, Rajesh Ajrawar, Nitesh Chehal and Mayank Safidon also gave fist blows to Anish and also to the complainant. The 3-4 unidentified boys also gave beatings to them. Anish who was seriously injured was taken to hospital but he ultimately expired after having been admitted in GMCH, Sector 32, Chandigarh.

3. The learned counsel for the petitioner has submitted that the FIR came to be lodged under some misunderstanding and that infact when the complainant stepped into the witness-box, he did not support the case of prosecution at all and was declared as hostile. Learned counsel, in this regard, has referred to the statement of PW-14 Aditya Sharma (complainant) which has been annexed as Annexure P-2, which does show that the witness/complainant had been declared hostile.
4. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR, 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 more than 1 year and 10 months.
5. I have considered rival submissions addressed before this Court.
6. Having regard to the fact that the prime witness i.e. PW-14 Aditya Sharma (complainant) has resiled from his statement when he was examined during the proceedings of trial and while also noticing that two other co-accused i.e. Amandeep Singh and Gagan Gaba have already been granted bail, further

detention of the petitioner, who has already been behind bars for a substantial period of more than 1 year and 10 months, will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.5.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No