

In virtual Court

CRM-M-18251-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18251-2021 (O&M)
Date of decision: 28.06.2021

Rajesh @ Lakhmi

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Abhimanyu Singh, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.13 dated 10.01.2020 under Sections 147, 148, 149, 323, 302 IPC and Section 25 of Arms Act, registered at Police Station Badshahpur, District Gurugram.

Learned counsel for the petitioner submits that co-accused of the petitioner, namely Bhanwar has been granted the concession of regular bail vide order dated 26.11.2020 passed in CRM-M-20697-2020. The operative part of the order reads as under: -

“...Counsel for the petitioner submits that as per the allegations in the FIR registered at the instance of Anuj, his brother Rahul

(deceased) was living with him and had a dispute with Lakhmi. It is further stated in the FIR that Lakhmi challenge the complainant and his bother that they want to earn money by using their force and in the meantime, some persons picked bricks/stones in their hands and a person was having a knife hit Rahul on his neck and Lakhmi hit on the head of the complainant. The person, who caused injury to Rahul was called as Montu by the others.

Counsel for the petitioner submits that the petitioner is not named in the FIR and no specific injury is attributed to him. Counsel for the petitioner further submits that no motive is attributed towards the petitioner. He further submits that the only allegation against the petitioner could be of unlawful assemble and nothing was recovered from the petitioner. He further submits that his father is paralytic patient and his mother is a kidney patient as per the record attached with the same. He also submits that the petitioner is in custody since 11.1.2020.

Reply by Assistant Commissioner of Police Sohna South, Gurugram is filed and as per the same, it is stated that Montu caused the fatal blow to Rahul on the left side of his neck. In the affidavit, it is also stated that the petitioner was arrested on the disclosure statement of the co-accused.

Learned State counsel further submits that the challan stands presented and the case is now fixed for 25.4.2021.

After hearing counsel for the parties; considering the submissions made by counsel for the petitioner and considering allegations in the FIR, this petition is allowed and the petitioner is directed to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned...”

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

Learned counsel for the petitioner further submits that as per allegations in the FIR, the petitioner has given a brick-bat blow to complainant Anuj, which has invoked Section 323 IPC, as per the prosecution version. Learned counsel has referred to the post-mortem report of deceased Rahul, wherein he has sustained only one *stab wound 8 x 3 cm obliquely seen over neck postero laterally* and the same is attributed to co-accused Montu. It is further submitted that even two more co-accused namely Naveen and Mahesh have been granted the concession of regular bail by the trial Court. It is also submitted that the petitioner is in custody for the last 01 year, 05 days and 14 days; two prosecution witnesses have already been examined, out of total 19 PWs and the trial is delayed due to COVID-19 situation.

Learned State counsel, on the basis of affidavit of Investigating Officer, has not disputed the factual position, however, it is submitted that blood on the weapon of offence i.e. knife matched with the blood of deceased Rahul, as per FSL report. It is further submitted that the petitioner is facing trial in one more FIR under Sections 406, 498-A IPC, arising out of some

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matrimonial dispute.

After hearing learned counsel for the parties, without commenting anything on merits of the case and going through the contents of the FIR; post-mortem report and affidavit of the Investigating Officer and also considering the fact that three co-accused of the petitioner have already been released on regular bail, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

28.06.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No