

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 216

CRM-M-17924-2021

Date of decision : 27.10.2021

Pankaj

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms.Prabhleen Kaur, Advocate, for
Mr.N.P.Bhardwaj, Advocate, for the petitioner.

Mr.Rahul Mohan, DAG, Haryana.

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.274 dated 05.05.2020, registered under Sections 302 and 34 IPC at Police Station Chandnibagh, District Panipat.

Hansmukha filed a complaint with the police that on 05.05.2020 her younger son namely Brijesh Kumar (for short-the deceased) had an altercation with the petitioner. Thereafter, the petitioner went home and came back with two of his friends and gave beatings to the deceased. When Hansmukha went to save her son she found him in an unconscious condition. With the help of neighbours she took him to General Hospital, Panipat where he was declared dead. On the basis of Hansmukha's afore statement, FIR under Sections 302 and 34 IPC was registered against the petitioner and his two accomplices.

Seeking regular bail for the petitioner learned counsel submits that the petitioner, who is a 19 year old boy, has been falsely implicated in this case; he is in custody since 07.05.2020; there is no other criminal case pending against him; all the material prosecution witnesses already stand examined

before the Trial Court; the only eye witness i.e. complainant-Hansmukha while appearing before the Trial Court as PW1 has specifically stated that it was not the petitioner who had given beatings to her son leading to his death and that in the petitioner's trial where over 20 prosecution witnesses still remain to be examined it will take a long time to conclude.

Learned State counsel does not dispute the fact that the complainant, who was the only eye-witness, while appearing before the Trial Court has turned hostile but opposes the grant of bail to the petitioner on the ground that there is other evidence to convict him.

The petitioner, who is a 19 year old boy, is in custody for the last over 1½ years; the only eye witness i.e. the complainant, who was the deceased's mother, while appearing before the Trial Court has deposed that it was not the petitioner who had given beatings to her son causing his death; admittedly, all the material witnesses have since been examined before the Trial Court and therefore, the petitioner is not in a position to influence them and that because in the petitioner's trial over 20 prosecution witnesses still remain to be examined it is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Panipat the petitioner is directed to be released on bail.

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.

After going through the record of the case this Court finds that the FIR in question was lodged on the complaint filed by Hansmukha wherein she

had specifically identified the petitioner to be the person who gave injuries to her son causing his death but while appearing before the Trial Court she has taken a completely different stand. In these circumstances, the State is directed to consider the divergent stands taken by Hansmukha and proceed against her, in accordance with law.

27.10.2021
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No