

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

**CRM-M-18493 of 2021 (O & M)
DATE OF DECISION : 15.06.2021**

Raj Kumar @ Raju
versus

...Petitioner

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Aditya Sanghi, Advocate,
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

Mr. Abhinav Aggarwal, Advocate,
for the complainant.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

The petitioner is seeking regular bail in FIR No.119 dated 29.05.2020 registered under Sections 148/149/302/307/341/506/120-B IPC at Police Station Pinjore, District Panchkula.

2. Per FIR, one Gurjit Singh and his cousin Gurwinder Singh were coming from Pinjore to their village on their respective motorcycles, when at about 7.30 pm, five boys in a white Alto car and 10/12 persons on 4/5 motorcycles came enroute. The driver of the Alto car stopped them by putting his car right in front of their motorcycles. Thereafter, the boys sitting in the car and other persons on the motorcycles attacked them with sword, kirpan and gandasi. One Channi @ Gurdeep inflicted blow with gandasi on the right elbow of Gurwinder Singh. Happu gave sword blow on left leg of Gurwinder Singh. Gurmeet Singh @ Gummi inflicted sword blows on the hand of Gurwinder Singh and on shoulder and forehead of the Gurjit Singh

(complainant). Kichu gave danda blow on his right leg. Their other companions, including Kulbir, Rangpal, Lovely, Jagga, Sattu, Achhar, Pilu, Raju (present petitioner) and Ganga also attacked both the victims. They fell down on the road and the assailants, while threatening to kill them on opportunity in future, fled away from the spot in their respective vehicles. Victims were taken to hospital, where one of them i.e. Gurwinder Singh was declared brought dead.

3. FIR was registered and investigation conducted. Pursuant thereto, petitioner was arrested. He is stated to be in custody since 04.06.2020.

4. Learned counsel for petitioner strenuously argues that role attributed to the petitioner is on the same footing as that of co-accused Jarnail @ Kichu, who has been granted the concession of regular bail by a co-ordinate Bench of this court vide order dated 26.03.2021 passed in CRM-M-41251 of 2020 (Annexure P-10). He submits that on the ground of parity alone, the petitioner is entitled to be enlarged on bail, at this stage. Since the trial in the case is not likely to commence or conclude anytime soon due to the current pandemic scenario, when the Courts are working in restricted manner.

5. While on the other hand, learned State counsel as well as learned counsel for the complainant object to the grant of concession of regular bail to the petitioner, inter-alia, on the ground that statement of the complainant is to be recorded before the trial Court and possibility of the petitioner to influence the witnesses, cannot be ruled out.

6. Per contra, learned counsel for the petitioner submits that he has instructions to state that the petitioner shall not enter the territorial

jurisdiction of Panchkula until the statement of complainant is recorded, where the complainant is stated to be currently residing, unless, of course, he is required to appear before the Court.

7. On merits, learned counsel for the petitioner submits that petitioner has been falsely implicated, based on the general allegations without there being any specific role and/or any overt act on the part of the petitioner of having caused any injury which led to death of the victim. He further states that even otherwise, no recovery has been effected from the petitioner so as to suggest his involvement in the fight/unlawful assembly which led to registration of FIR in question. Learned counsel further points out that it is a case of version and counter-version, wherein unfortunately the FIR lodged at the instance of victim/complainant seems to have weighed more heavily with the prosecution owing to death of one of the victims. But the antecedents of the victims qua an earlier FIR by the petitioner bearing No.158 dated 05.07.2020 registered under Sections 148/323/452/149 IPC, Police Station Pinjore, District Panchkula, reflecting that there was a pre-existing animosity between the two sides, has been completely over looked by the prosecution.

8. The petitioner is in custody since 04.06.2020 and admittedly, investigation is complete and challan has been presented. Both the accused as well as complainant are stated to be students and learned counsel for the petitioner contends that being on cross roads of his career, future prospects of the petitioner would be seriously jeopardised in case of his further incarceration.

9. I have heard the rival contentions of the respective learned counsels.

10. The trial is not likely to commence or conclude soon in view of the situation arisen due to pandemic. Therefore, no useful purpose would be served by keeping the petitioner in further preventive custody. Having perused the order dated 26.03.2021 passed by a co-ordinate Bench of this Court, I am of the view that on the ground of parity alone, the petitioner is entitled to grant of concession of regular bail.

11. Considering the overall scenario, without advertng on the merits of the case, the instant petition is allowed. However, the petitioner shall not enter the territorial jurisdiction of Panchkula until the statement of complainant is recorded, unless, of course, he is required to appear before the Court.

12. The petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be.

JUNE 15, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No