

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

211

CRM-M-19819-2021

Date of Decision: 29.06.2021

Ajay

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Ms. Harmanpreet Kaur, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana,
assisted by ASI Dilbag Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.175 dated 07.12.2019 at Police Station Alewa, District Jind, under Sections 148/149/302/323 IPC.
2. The FIR in question was lodged at the instance of Sewa Singh, wherein it is alleged that on 06.12.2019, it was their turn for watering the fields and accordingly he alongwith his brother Kuldeep went to the fields at about 8.00/8.30 PM. At about 9.00 PM, when he alongwith his brother Kuldeep, Kapil, Mahipal @ Bobby and Vinod were sitting in their fields, then Jora Singh of the neighbouring fields, Ajay son of Jora Singh, another son of Jora Singh, Mandeep and other 5/6 unknown persons, who were all armed with sticks, *gandas* and spears came there on motor-cycles and pick-up vehicle. It is alleged that said persons were

raising *lalkara* that they shall teach a lesson to Kuldeep, Vinod, Mahipal @ Bobby and Kapil for closing the water outlet. Jora gave 2/3 blows with his stick to Mahipal @ Bobby. Mandeep is stated to have caused an injury to Kapil with the stick in his hand. Ajay, who was carrying a *gandasa*, gave a blow with the same to Kuldeep, which landed on the calf of his left leg on account of which Kuldeep fell down. Thereafter, another son of Jora gave kicks in the abdomen of Kuldeep. The complainant was also held by the accused and was given kicks and fist blows. Subsequently, upon finding that Kuldeep had expired, the accused left the spot on their motor-cycle and pick-up vehicle.

3. Learned counsel for the petitioner has submitted that even if the allegations as levelled in the FIR are taken to be correct, the petitioner is not attributed the fatal injury, as the solitary injury attributed to him is on the leg of the deceased. It has further been submitted that even as per the post-mortem report, it is the injuries found on vital organs i.e. brain and lungs, which were opined to be the cause of death. It has further been submitted that since all other co-accused have been released on regular bail by this Court vide orders dated 04.08.2020, 09.09.2020, 07.10.2020 & 05.11.2020 (Annexures P-3 to P-6 respectively), the petitioner also deserves the same concession on the grounds of parity.
4. Opposing the petition, learned State counsel has submitted that since the petitioner was armed with a deadly weapon and had in fact caused an injury to the deceased incapacitating him and on

account of which the deceased could not escape, no case for grant of bail is made out. Learned State counsel has, however, not disputed that all other co-accused have since been granted bail and that the petitioner as on date has been behind bars since the last more than 1 year and 7 months. It has further been informed that the petitioner is not involved in any other case.

5. I have considered rival submissions addressed before this Court.
6. Although it is apparent that the petitioner has not caused the fatal injury, but his complicity in the matter would be debatable, as his co-accused had caused injuries which resulted into death of the deceased and the prosecution may be able to prove that the petitioner is vicariously liable. In any case, since all other co-accused have been granted bail, the petitioner deserves the same concession on the grounds of parity particularly since he has been behind bars for a substantial period of more than 1 year and 7 months and till date not even a single PW out of cited 26 PWs has been examined. 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.

29.06.2021

Vimal

**(GURVINDER SINGH GILL)
JUDGE**

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