

CRM-M-19886-2021 (O&M)
Date of Decision : 11.10.2021

Hitesh and Anr.

...Petitioners

versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Manoj Kumar Sood, Advocate for the petitioners.

Ms. Geeta Sharma, DAG, Haryana.

AVNEESH JHINGAN, JUDGE (ORAL)

This petition under Section 439 of the Code of Criminal Procedure is filed seeking bail in FIR No.0141 dated 17.09.2020 under Sections 148, 149, 323, 325, 341,302 and 120-B IPC, registered at Police Station Rojka Meo, District Mewat.

The brief facts are that on 16.9.2020 a telephonic information was received that there has been clashes of two communities in village Atta. Police went to the spot and was informed that injured has been taken to Government Hospital. Large number of bricks, stones and blood was found on the spot. On 17.9.2020 information was received from Medanta Hospital, Gurugram that Ved Ram (deceased) succumbed to injuries sustained. Pohap son of deceased filed a complaint. He stated that on 15.9.2020, nine year old child of their family Prince was beaten by Trilok. Family members of the complainant including his grandfather were going to the house of Trilok to make the complaint about the incident. On the way they met Trilok, who slapped Bir Singh and abused them. On 16.9.2020, Rajesh, Rakesh and Lokesh were assaulted by accused, deceased had gone to market to purchase some articles. As per the allegations, petitioners inflicted injuries to the deceased. All

accused including the petitioners armed with *danda*, iron rod, *farsa*, bricks and

stone, took away the injured deceased. The complainant party tried to rescue the deceased but could not reach him due to stone pelting by accused. Deceased was found in an injured condition in front of house of Charan Singh.

Learned counsel for the petitioners submits that it is a case of false implication. He relies upon the fact that six co-accused have been granted bail and the story put forth by the complainant was found not reliable by the trial court.

Learned State counsel opposes the grant of bail. She submits that petitioners have been specifically named in FIR, the allegations made against petitioners by the complainant and the eye witness were consistent. It is argued that the petitioners cannot claim parity with the co-accused who were granted bail as role attributed to them was different. She further submits that as per the PMR, Ved Parkash died due to injury sustained. She contends that there is an eye witness to the incident.

As per the case set up, Hitesh and Dushyant assaulted the deceased. Both petitioners along with other accused took away deceased. The case is at the stage of examination of prosecution witnesses, the material witnesses are yet to be examined. The parties belong to the same village, there would be a possibility of influencing the witnesses.

The petitioner cannot claim parity with the other six co-accused, who were granted bail by the Sessions' Court. Four co-accused were named in the supplementary statement. In case of other two co-accused, it was specifically recorded in the bail order that there is no allegation that they had inflicted any injury to the deceased. Rather as per the allegations they gave simple and grievous injuries to Lokesh and Varinder only. Whereas there are specific allegations against the petitioners of inflicting injuries to the deceased.

The contention that the story of the complainant was not found reliable by the trial Court would be subject matter of the trial and suffice to say that observation made in the order granting bail are not to be considered as final observation on the merit of the case. Considering the gravity of offence and allegation made against petitioners, no case is made out for grant of bail.

Dismissed.

However, it is clarified that nothing stated hereinabove shall be construed as an expression of opinion on merits of the case.

Since main case has been dismissed, the pending application renders infructuous.

11th October 2021

Manju

(AVNEESH JHINGAN)
JUDGE

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