

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

CRM-M-24019-2021 (O&M)

Date of decision : 25.10.2021

Anil Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

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

Ms. Ambika Sood, Addl. AG Haryana.

ALKA SARIN, J.

Taken up through video conferencing.

This is the third petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.892 dated 28.12.2018 under Sections 323, 34, 506 of the Indian Penal Code, 1860 (challan under Section 302 IPC) registered at Police Station Sampla, District Rohtak. The first petition for grant of regular bail being CRM-M-13498-2020 was dismissed as withdrawn on 09.07.2020 while the second petition for grant of regular bail being CRM-M-33306-2020 was dismissed as withdrawn on 10.03.2021.

Learned counsel for the petitioner would contend that the petitioner has falsely been implicated in the present case and has been in custody since 02.01.2019. Learned counsel for the petitioner would further contend that the FIR in the present case was lodged after 18 hours of the occurrence by the brother of the deceased, namely, Vikrant. He would further contend that the complainant-Vikrant has been examined as PW-1 and that his cross-examination clearly shows that Lalit and another friend

Satyawan along with elder brother of the deceased, namely, Ashish were present when the complainant-Vikrant got the FIR recorded. It is further stated in the cross-examination that the witness-Lalit was aware about the face of the accused and therefore it does not sound to reason as to why the complainant remained silent about the description of the accused at the time of registration of the FIR.

Learned counsel for the State has referred to the status report filed by way of affidavit of Sh. Gorakhpal, HPS, Deputy Superintendent of Police, Rohtak wherein it has been stated that initially the case was registered vide FIR No.892 dated 28.12.2018 under Sections 323, 34, 506 IPC registered at Police Station Sampla, District Rohtak and the Investigating Officer sought the opinion from the Doctor and the Doctor opined that the injuries on the person of the deceased (Sachin) were dangerous to life upon which Section 307 IPC was added in the case. During the course of the investigation, on 02.01.2019 the petitioner was arrested who made his disclosure statement and got recovered the *bitta*/wooden stick used in the commission of crime. On 05.01.2019 Sachin died at PGIMS Rohtak and Section 302 IPC was added in this case and Section 307 IPC was removed. After investigation the police filed the challan under Sections 302, 323 and 506 IPC. Learned counsel for the State has further referred to the status report to contend that till now total 22 prosecution witnesses have been examined before the Trial Court and only 5 witnesses remain and sincere efforts would be made to complete the prosecution evidence.

Heard learned counsel for the parties.

On 28.12.2018 one Sachin (since deceased) was admitted at PGIMS Rohtak with injuries suffered in an altercation. Head Constable

Manjeet along with Constable Surjeet reached there. However, the doctor opined that Sachin (since deceased) was not fit to make a statement. The incident was reported in writing by the brother of Sachin (since deceased). In the FIR it has been stated that the complainant had seen the petitioner hitting Sachin with a *bitta* (wooden stick). However, when they ran towards them to save Sachin, Sachin had fallen on the side of the road and the petitioner ran away from the spot. At the time of filing of the FIR it was stated that they did not know the full address of the petitioner (Anil) who had injured Sachin. Thereafter Sachin's condition was serious and the doctor did not declare him fit for getting his statement recorded.

The argument raised by learned counsel for the petitioner that the FIR was lodged after a delay of 18 hours of occurrence cannot be looked into at this stage and would be gone into during the trial. Further, the reference by learned counsel for the petitioner to the cross-examination would also be seen at the time of trial. Suffice it to say that till now 22 prosecution witnesses have been examined and only 5 witnesses remain.

In view of the above and keeping in view of the fact that the trial is almost at its conclusion stage, I do not deem this to be a fit case for grant of regular bail. Hence, the present petition is dismissed. However, the Trial Court is requested to expedite the trial.

However, it is made clear that nothing observed herein shall be construed as an expression on the merits of the case.

25.10.2021
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO