

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

222

CRM-M No.25724 of 2021
Date of decision:07.09.2021

Basant

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Dr. Deipa Singh, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

Heard through video conferencing.

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.06, dated 06.01.2020 registered under Sections 302 and 34 IPC, 1860, at Police Station Gurugram City, District Gurugram, Annexure P-1.

FIR, Annexure P-1, came to be registered on the complaint of Bajrangi with the allegation that he is working at a restaurant and he had a fight with his colleague Devender, who after consuming alcohol kept on hurling abuses at him. When Devender asked him to get a liquor bottle from a vend, he refused and Devender slapped him, which enraged him and he decided to take revenge. He called Ravinder who brought Manoj along with him at about 01.00 am. When Devender and Basant (present petitioner) came downstairs from the restaurant, a fight started between them. Devender was carrying a broken alcohol bottle, with which he attacked the complainant and the other co-accused, Vijay and

Sanjay caused injuries on his chest. Vijay, Basant and Sanjay inflicted injuries to Ravinder. Manoj was caught by Sanjay and Basant (present petitioner) and Devender inflicted a knife blow on his chest. Vijay hit Manoj on the head with a brick and Manoj lost consciousness and fell down. The complainant called up the police and an ambulance came which took them to the hospital, from where both the complainant and Ravinder left without informing the hospital staff. Later they came to know that Manoj had died.

Counsel for the petitioner submits that a fight had erupted between the complainant-Bajrangi and Devender, who was in an inebriated state. She asserts that the allegation against the petitioner is that he pulled Ravinder with his hair and caught hold of deceased Manoj, whereas co-accused-Devender and Vijay are alleged to have given fatal injuries to deceased, Manoj. Counsel contends that the incident took place in the early morning hours of 6th January, 2020, whereas FIR was lodged at about 05.00 pm in the evening and there is no explanation of delay. She has referred to the deposition of the complainant, which has been appended as Annexure R-1 with the status report filed by the State, to submit that he has resiled from his statement recorded during the investigation. She submits that the petitioner, who is in custody since 07.01.2020, has clean antecedents and is no longer required for custodial interrogation as the challan has been presented, charge has been framed and the prosecution evidence is underway.

Opposing the petition, learned State counsel upon instructions from ASI Manish Kumar, submits that the petitioner has been specifically named in the FIR and he actively participated in the

homicide of Manoj. As per his instructions, a bag with blood stained clothes has been recovered from him. He has made a reference to the status report filed by way of an affidavit of Assistant Commissioner of Police, City Gurugram, to submit that challan has been presented on 30.03.2020, charge has been framed on 19.10.2020 and 05 out of the 20 prosecution witnesses including complainant have been examined.

Having considered the submissions of the parties, this Court is prima facie of the view that the material collected by the prosecution and the involvement of the petitioner in the murder of Manoj remains debatable and the petitioner, who is in custody since last more than 01 year and 07 months would be entitled to be released on bail, during the pendency of the trial.

Without commenting upon the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

07.09.2021

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No