

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-28808-2021 (O&M)

Date of Decision:- 10.11.2021

Sugam Gupta

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Anshul Mangla, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Jasmer Singh.

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. 358, dated 8.3.2020, Police Station Jagadhri, District Yamunanagar, under Sections 148, 149, 212, 302, 323, 325, 452, 506 IPC (Section 212 and 302 IPC added later on).
2. The FIR was lodged at the instance of Amina Khatoon wherein it is alleged that she along with her husband Imtiyaj (deceased) had been

running a food joint (*Dhaba*) situated at Shanti Colony, which they normally used to close at about 9/9.30 pm. It is alleged that on 5.3.2020, when she along with her husband Imtiyaj was present at their *Dhaba*, then at about 8 pm. Gourav came there and took a round their *Dhaba* on motorcycle and went away while having a look at the *Dhaba*. After some time, a Creta car and 2-3 motorcycles stopped near their Dhaba. Johny Pehlwan, Goru, Babu, Ankit @ Lalu, Ankit, Dinesh, Amit, Dhanna, Sahil Pandit and brother-in-law of Amit (name not known) alighted from the said vehicles and they were carrying iron rods and sticks in their hands and were also accompanied by 5/6 unknown masked persons. It is alleged that Johny Pehlwan raised a *lalkara* exhorting his companions to teach Imtiyaj a lesson and upon which all the accused started inflicting injuries to her husband. Although her husband tried to rescue himself but to no avail. Babu and Dhanna gave rod blows on the legs of her husband on account of which he fell down. Babu thereafter gave another blow on the left leg of her husband while Dhanna gave blow on his right leg and the rest of the persons also gave blows on head, stomach, chest of complainant's husband and also damaged various articles lying at the *Dhaba*. It is further alleged that Johny, Dhanna, Gaurav and others took away a sum of Rs.5000/- from the pocket of the complainant's husband and also took away another amount of Rs.30/35,000/- lying in the locker. It is further alleged that although complainant's husband was taken to a local hospital from where he was referred to Trauma Centre, Yamunanagar and from where he was

further referred to PGI, Chandigarh, but he ultimately expired on 13.3.2020.

3. Learned counsel for the petitioner has submitted that he is nowhere named in the FIR and is sought to be nominated as an accused on the basis of disclosure statements allegedly made by co-accused Sahil Sharma and Ankit Dhiman, who have specifically stated that on 5.3.2020 they had gone to the *Dhaba* of the deceased in the car of Sugam Gupta (petitioner) and that they all had caused injuries to the deceased with the help of rods and sticks and that some rods and sticks were lying in the car of Sugam Gupta. Learned counsel for the petitioner submits that such like disclosure statements cannot be relied upon unless there is other clinching and convincing evidence in support of the same and that since the petitioner in any case has been behind bars since the last about 11 months and since the trial has not even commenced inasmuch as no PW has been examined, the petitioner deserves the concession of bail.
4. Opposing the petition, learned State counsel submits that since two of the accused who are specifically named in the FIR have specifically nominated the petitioner as their companion and have specifically stated that the car of the petitioner has been used for going to the place of occurrence where all the accused including the petitioner had caused injuries, no case for grant of bail is made out particularly when the car has also been recovered from the petitioner. It has also been submitted that in fact it was on the asking of the petitioner that the other co-accused went the *Dhaba* so as to cause injuries to the

deceased. It has also been informed that the petitioner stands involved in one more case registered under Sections 323, 324 and 325 IPC.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that while the complainant specifically named as many as 9 persons in the FIR, the petitioner is nowhere named in the FIR and came to be nominated subsequently on the basis of a disclosure statement, the admissibility and veracity of which would be debatable. In any case, the petitioner has been behind bars since the last about 11 months and till date not even a single witness out of the cited 27 PWs has been examined. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10.11.2021

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No