

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-21837 of 2020 (O&M)

Date of Decision: 23.02.2021

Gurcharan @ Kaka

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Sagar Aggarwal, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Hamit Hasan, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

CRM-18839-2021:

The application is allowed, as prayed.

Criminal Misc. No.M-21837 of 2020:

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.199 dated 16.04.2018 under Sections 148, 149, 323, 324, 325, 302, 307, 447, 506, 511, 120-B IPC and Sections 25 and 27 Arms Act registered at Police Station Shahabad, District Kurukshetra.

Learned counsel for the petitioner has argued that apart from the fact that the petitioner is in custody since 21.04.2018, no specific injury

has been attributed to him. It is only on the basis of disclosure statement of co-accused Jaswinder Singh, the petitioner has been named in the present case. The recovery of *danda* has been effected from the petitioner. In fact, the petitioner has not been named as an accused in the present FIR even after the application filed by the prosecution under Section 311 CrPC has been allowed by the trial Court. He has further submitted that as against the total 83 prosecution witnesses, only 23 witnesses have been examined so far. The main material witnesses had initially turned hostile, though the State has filed an application under Section 311 CrPC to re-examine these witnesses, which has been allowed. In this manner, delay is likely to be caused in concluding the trial. He has relied upon orders of this Court dated 25.06.2020 passed in CRM-M-14492-2020 *Gurpreet Singh Vs. State of Haryana* and order dated 06.11.2020 passed in CRM-M-35024-2020 *Kamal Kumar Vs. State of Haryana*, whereby the co-accused have been admitted on bail.

Learned counsel for the complainant has argued that the present is a case in which two persons namely Mangat Khan and Fakiria have died. Though the petitioner has not inflicted any specific injury to the deceased, but the petitioner was present at the scene of occurrence and thus, his being a member of the unlawful assembly, is sufficient to decline bail to him.

Learned State counsel, on instructions from ASI Rameshwar, does not dispute the custody of the petitioner and the stage of the trial.

I have heard learned counsel for the parties.

Admittedly, no specific injury has been attributed to the petitioner which led to the death of Mangat Khan and Fakiria. Considering the fact that the petitioner is in custody since 21.04.2018 and as against the total 83 witnesses cited by the prosecution, only 23 witnesses have been examined so far and thus, trial is not likely to be concluded in near future, particularly when the prosecution has filed an application under Section 311 CrPC which has been allowed in order to re-examine three prosecution witnesses, this Court deems it appropriate to admit the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that the observations made hereinabove shall not be construed as expression of any opinion on the merits of the case.

Needless to say that the petitioner shall not influence any witness or cause delay in the smooth trial, in any manner.

February 23, 2021
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No