

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209

CRM-M-30447 of 2021 (O&M)

Date of decision:01.10.2021

Kewal @ Hani

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vishal R. Lamba, Advocate for
Mr. H.S.Deol, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

Heard through video conferencing.

CRM No.30564 of 2021

Application is allowed as prayed for.

Copy of deposition of Kailash Chand (PW-1), Balkesh Kumar (PW-2), Sudhanand (PW-3), Raj Kumar (PW-4) and Anand (PW-5) and order dated 07.09.2021 passed by learned Additional Sessions Judge, Rewari are taken on record as Annexures P-10 to P-15, respectively.

CRM-M-30447 of 2021

This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.86 dated 30.03.2020 registered under Sections 147, 148, 302 of Indian Penal Code, 1860 (for

short “IPC”) and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Sections 147, 148, IPC were deleted and Section 34, IPC and Section 25 of Arms Act, 1959 were added later on) at Police Station Kosli, District Rewari (Annexure P-1).

As per the case of the prosecution, FIR (Annexure P-1) has been registered on the statement of Kailash Chander, wherein, he alleged that Sanjeev, Kewal (present petitioner) and 6-7 other boys alongwith some girls came to the stadium of their village, where they were indulged in wrongful activities. Children of the village objected and the said persons ran away hurling abuses at them. On 28.03.2020 at 6.00 p.m., son of the complainant, Vidhanand, his cousin Sudhanand and some other boys from the village were confronted by Sanjeev, Kewal (present petitioner) and 6-7 other boys. Sanjeev, who was carrying a knife, first stabbed Vidhanand in the stomach and then under his left armpit. Other boys, who were accompanying him assaulted the village boys, who ran away. On receiving information, the complainant got his son admitted in the hospital, where he died during treatment. The petitioner was arrested on 31.03.2020, during the course of investigation.

Counsel for the petitioner submits that the petitioner had earlier approached this Court by filing CRM-M-42064 of 2020, which was withdrawn, after arguments, on 18.01.2021. He submits that thereafter, there has been major change in the circumstances as the complainant, eye witness and other material witnesses have been examined, who have not supported the version of the prosecution. In particular, counsel has made a

reference to the testimony of eye witness, Sudhanand (prosecution witness No.3), Annexure P-12, who has denied the presence of the petitioner at the spot and has deposed that he does not know the main accused, Sanjeev and Kewal (present petitioner) and that they have not inflicted any injury on the deceased. Reference has also been made to the testimony of the complainant, Kailash Chander (prosecution witness No.1), Annexure P-10, wherein, he has deposed that his son died due to injuries sustained on account of attack by a bull. According to the counsel, version of other prosecution witnesses is similar. Counsel has also invited the attention of this Court to the order dated 07.09.2021 (Annexure P-15), whereby, the main accused Sanjeev @ Kalia has been released on bail by the trial Court. He submits that the petitioner, who is 19 years of age and has clean antecedents, deserves to be released on bail.

Per contra, State counsel, upon instructions from SI Ram Chander, has opposed the petition and by making a reference to the status report filed by way of an affidavit of Deputy Superintendent of Police, Kosli, District Rewari, has submitted that the petitioner is specifically named in the FIR and has played an active role in the homicide. As per his instructions, challan has been presented on 22.06.2020, charge has been framed on 13.01.2021 and 07 out of 23 prosecution witnesses have been examined.

Having heard counsel for the parties, this Court is of the opinion that as the deposition of the material witnesses including the complainant and the eye witness has been recorded, the trial is likely to take

time to conclude and the petitioner, who is in incarceration for the last more than 01 year and 06 months is entitled to be released on bail during the pendency of the trial.

Without examining the merits or demerits of the arguments advanced by counsel for the parties, the petition is allowed and 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 to be a reflection of opinion on the merits of the case.

October 01, 2021

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes