

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-25586 of 2020 (O&M)

Date of Decision: 26.02.2021

Gaurav Sharma

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. H.S. Brar, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

CRM-641-2021:

The application is allowed, as prayed. Statements of PW-2 to PW-4 are taken on record as Annexures P-9 to P-11 respectively.

CRM-1084-2021:

The application is allowed, as prayed. Statement of PW-1 is taken on record as Annexure P-12.

Criminal Misc. No.M-25586 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

Criminal Misc. No. M-25586 of 2020

petitioner in case FIR No.568 dated 22.11.2018 under Sections 302, 34 IPC registered at Police Station Baldev Nagar, District Ambala.

As per the FIR, on 20.11.2018 at about 9-00 P.M. Balbir Singh (deceased) had a fight with the petitioner-Gaurav and co-accused Devender Singh. As a result thereof, he suffered some injuries on his left eye and head. On the next day, the matter was compromised between the parties. However, on 21.11.2018 at about 08:00 PM, Gaurav, the present petitioner and Devender Singh, co-accused, called the deceased and they again gave beatings to him after consuming liquor. On the next morning, the condition of Balbir Singh started deteriorating and accordingly, he was shifted to hospital, where he died, on account of head injuries. The Board of Doctors opined that the cause of death of the deceased was head injuries and their complications.

Learned counsel for the petitioner has argued that the petitioner is in custody since 06.06.2019. There is already a compromise between the parties. At the most, the injury attributed to the petitioner is swelling over the left eye with blackish discoloration and PW-1 Dr. Mala Chandra, Medical Officer, General Hospital, Ambala City, in her statement stated that during post-mortem, following injuries were found as per the PMR Ex.PW-1/A and its computer generated copy Ex.PW1/B:-

- “1. Left back eye (upper and lower eyelid) mild left eye conjunctival congestion present.*
- 2. Bilateral parietal region swelling present on dissection. Meninges are intact, blood vessels engorged more on left side than right side.”*

Criminal Misc. No. M-25586 of 2020

He further submits that the injury attributed to the petitioner is injury No.1. The complainant- Kulwant Kaur, who is none else but the mother of the deceased, has been examined in the case and she has not supported the case of the prosecution and rather, she has been declared hostile and similarly father and uncle of the deceased have also been examined and they have also not supported the case of the prosecution. Interestingly, there is an allegation in the FIR that on 21.11.2018 at about 08:00 PM, after drinking alcohol, the accused-petitioner and co-accused- Devender Singh after giving beatings to the deceased, dropped him at his house and thereafter, the deceased slept. But in the next morning, the deceased became sick, for which he was taken to General Hospital, Ambala City. The injury attributed to the petitioner is on the left eye with *kara*, whereas kick blows were given by co-accused Devender Singh. He further submits that apart from the fact that the matter was compromised on 21.04.2020 and the PWs, who have been examined in the case, have not supported the case of prosecution and thus there are very bleak chances of his conviction and therefore, considering the long custody of the petitioner, he deserves to be admitted on bail.

Learned State counsel does not dispute the custody of the petitioner and submits that there are allegations that the petitioner along with co-accused has given injuries to the deceased, which led to his death. The other co-accused Devender Singh has not been arrested and has been declared proclaimed offender. Therefore, the petitioner does not deserve to be admitted on bail.

I have heard learned counsel for the parties.

Criminal Misc. No. M-25586 of 2020

The present case was registered on the statement of none else but the mother of the deceased namely Kulwant Kaur. In the FIR, there is a specific recital that the petitioner has inflicted injury on the person of deceased Balbir Singh on his left eye with *Kara* , whereas kick blows were attributed to co-accused-Devender Singh. The witnesses namely i.e. PW-2 Kulwant Kaur, PW-3 Karnail Singh and PW-4 Swaran Singh have been examined in the case. They are none else than the mother, father and uncle of the deceased respectively. They have not supported the case of the prosecution and rather, resiled from their previous statements. In this manner, the prosecution is yet to be establish their own case beyond all probabilities.

Be that as it may, without observing anything on the merits of the case, but considering long custody of the petitioner and the fact that PW-2 Kulwant Kaur, PW-3 Karnail Singh and PW-4 Swaran Singh have not supported the case of the prosecution, 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.

February 26, 2021
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No