

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-35609-2021
Date of decision: 08.11.2021**

Amit @ Lala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Kulvir Narwal, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 187 dated 23.03.2018, registered under Sections 148, 149, 323, 341, 325, 506, 302, 120-B of the IPC at Police Station Sadar, Bahadurgarh, District Jhajjar.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant Ashok Kumar, it is stated that on 22.03.2018, he was sitting in front of his house and his grandson Sarthi was playing in the street. In the meantime, his neighbour co-accused Sunil came on a cycle and frightened his grandson. On this, his son Nikesh told Sunil to ride the cycle carefully, however, he started fighting with Nikesh. Thereafter, he came with co-accused Kirshan and Birpal and threatened that why they have admonished Sunil and

thereafter they went away. Thereafter, Sunil, Anil, Amit, Mukesh threw brick bats towards the complainant's side and the complainant along with his son Omvir came to Police Post for reporting the case. When the complainant reached in front of the house of Pappal Prajapati, then Amit, Sunil, Anil, Pawan, Ankit, Kirshan, Kamlesh were standing there carrying pipes and rods in their hands. In the meantime, sons of the complainant, namely Nasib and Nikesh, and nephew Pawan came on the motorcycle. Kirshan stopped all of them and stated that they will be taught a lesson for admonishing Sunil. They all started giving beatings to complainant's side with pipes and rods. They caused multiple injuries to Nasib, Nikesh and Pawan. On seeing the fight, complainant's uncle Krishan and others reached there and thereafter, all the accused persons ran away. Later Nikesh died due to injuries caused by accused.

Learned counsel further submits that PW-1/complainant Ashok Kumar, while appearing in Court, has though named the petitioner along with others, however, no specific role has been attributed to him and it is stated that all the accused persons, in conspiracy with each other, attacked the complainant's side and caused injuries. Learned counsel has also referred to the statement of PW-2 Pawan Kumar, PW-6 Naseeb and PW-7 Raj Singh, wherein similar allegations have been levelled. It is further submitted that all the witnesses are consistent at one point that the dispute arose when Sunil s/o Krishan (petitioner's brother) came on a cycle and frightened the grandson of Ashok Kumar and on that occasion, a verbal spat took place between deceased Nikesh and Sanjay and later on, all the accused persons, in conspiracy with each other, caused injuries to

complainant's side.

Learned counsel further submits that co-accused Krishana, Veerpal and Aman have already been granted the concession of regular bail by this Court, vide orders dated 03.10.2018, 20.07.2020 and 26.07.2021 passed in CRM-M Nos. 42605 of 2018, 16074 of 2020 and 4535 of 2021, respectively.

Learned counsel further submits that since all the private witnesses have already been examined, there is no possibility for the petitioner to tamper with the prosecution evidence as the petitioner was earlier granted interim bail on medical grounds for undergoing some operation at PGIMS, Rohtak and after availing the same, he surrendered back in time and did not misuse the same.

Learned State counsel has filed the custody certificate, as per which, the petitioner is in judicial custody for the last 03 years, 05 months and 24 days and he is not involved in any other case.

Learned State counsel, on the basis of the affidavit of the Assistant Superintendent of Police, Badli, has submitted that the petitioner was a part of an unlawful assembly which caused injuries to PW-2 Pawan Kumar and fatal injuries to Nikesh.

Learned State counsel has also relied upon the statement of PW-2 Pawan Kumar to submit that he has supported the prosecution version and has stated that after the said verbal spat, all the accused persons, in conspiracy with each other, came to teach them a lesson and in that process, they caused injuries to complainant's side.

Learned State counsel further submitted that it has come in

the statement of PW-2 that the petitioner was armed with an iron rod pipe along with other accused and they have caused injuries to the victims. It is further submitted that out of total 28 prosecution witnesses, 07 witnesses have been examined so far and the trial is going on.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in judicial custody for the last 03 years, 05 months and 24 days; all the private witnesses have already been examined; petitioner is not involved in any other case; there is no specific injury attributed to petitioner and also in view of the fact that some of the co-accused have already been granted the concession of regular bail, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

08.11.2021
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>