

219

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39674-2021 (O&M)
Date of decision-28.09.2021

Virender Singh @ Gyani

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Choudhary, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.134 dated 17.05.2021 registered under Sections 147, 149 and 302 IPC (Section 147 deleted and Section 148 and 365 read with Section 149 of IPC and Section 25 of Arms Act added later on) at Police Station Sadar Fatehabad, District Fatehabad. Petitioner is in custody since his arrest on 19.05.2020.

The allegations contained in the FIR and noticed by the learned Sessions Judge, Fatehabad in the order dated 02.09.2021 read as under:-

“As per prosecution case, complainant Jagdeep Singh @ Buggi suffered his statement before the police to the effect that on 16.05.2021 at about 8:00/8:30 p.m. he, Hardeep and his uncle's son namely Sanjay Kumar @ Bhokal were

sitting near Gurudwara in village Ayalki. At that time, six boys on two motorcycles came there and stopped their motorcycles in front of house of Rahul @ Vikas. Love was driving one motorcycle, upon which Akash and Shankar were sitting as pillion riders and Aman was driving other motorcycle, upon which two unknown boys were sitting as pillion riders. Then, Akash called Rahul @ Vikas to come out of his house and started giving beatings to him. On seeing the quarrel, his cousin Sanjay @ Bhokal, who is friend of Rahul @ Vikas, went to rescue him (Rahul @ Vikas). Akash was having knife in his hands and he gave knife blows into abdomen of Sanjay. Aman was having baseball bat and he gave baseball bat blows on back and shoulder of Sanjay. Shankar and two other unknown boys were having Dandas and they gave Danda blows on back, hips and other parts of body of Sanjay. Love also gave slaps, fist and kick blows to Sanjay. Sanjay fell down in drain pipe and he raised noise for help. On seeing the quarrel, he (complainant) and Hardeep went to spot and then, all the assailants alongwith their respective weapons fled away from there on their motorcycles. The motive behind this assault was that about seven months ago, Sanjay @ Bhokal had given a chit of mobile phone number to sister of Aman and then Aman and his family members had resisted that matter, which later on was

settled at brotherhood level and due to this grudge, Akash, Aman, Shankar, Love and two other boys by forming unlawful assembly and in furtherance of their common object had committed murder of Sanjay Kumar @ Bhokal. The complainant prayed for taking appropriate action against the accused persons. On this statement, present FIR under Sections 147, 302 read with Section 149 of IPC was registered.”

Learned counsel for the petitioner has argued that initially four persons namely Love, Akash, Aman and Shankar were named in the FIR who along with two unknown persons caused injuries upon victim Sanjay (deceased). According to him, the victim died of a solitary stab injury which is attributed to Akash, whereas co-accused Love and Shankar were found innocent during investigation. He submits that the petitioner has been nominated as an accused on the basis of a disclosure statement (Annexure P-2) made by co-accused Akash and has further pointed out that as per this also the petitioner was empty handed, who had given fist and kick blows to the victim. Learned counsel states that as the investigation of the case is complete, therefore, further custody of the petitioner may not be necessary. He prays for bail.

Learned State counsel assisted by ASI Amit Kumar opposed the prayer, who has argued that the petitioner was a member of the unlawful assembly and the statement of co-accused has clearly established his presence at the spot. However, it is not disputed that on the basis of

disclosure statement made by co-accused, the petitioner has been arraigned as an accused and the final report has been filed against eight accused persons. He on instructions further states that charges were framed on 09.09.2021, however, no prosecution witness has been examined so far.

After hearing the learned counsel for the parties and considering the above background of this case as well as custodial period of the petitioner, this Court is of the opinion that though the charges have been framed on 9.9.2021, but the trial is yet to start as no prosecution witness has been examined so far, thus, the conclusion of trial is likely to consume considerable time. Apart from it, the prosecution witnesses are either the close relatives of the victim or the police officials and there does not seem to be any possibility of their being won over, therefore, the further custody of the petitioner may not be necessary for any useful purpose who is presently confined in judicial custody after his arrest on 19.05.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

28.09.2021
geeta

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No