

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-35386-2020

DATE OF DECISION: APRIL 22, 2021

AJRUDDIN

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. JAGJOT SINGH, ADVOCATE
FOR MR. KUNAL DAWAR, ADVOCATE
FOR THE PETITIONER.

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 pending trial in case FIR No.409 dated 10.9.2019, under Section 302, 307, 148, 149 IPC and Section 25 Arms Act, Police Station Dabua, District Faridabad. The petitioner is in custody since his arrest on 24.12.2019.

The above FIR was registered on the statement of complainant- Ravinder, wherein it was stated that he was working in Government Press. On 09.09.2019 at about 10.30 p.m., when he was present at his house, one Rohit son of Kanwar Pal came to call his younger brother Naresh. The complainant's brother Naresh informed him about occurrence of fight in the vegetable market and that they were going to vegetable market to get the matter resolved. When they reached the office of Banwari and Chhotu in the market, then his father asked Naresh to return back, upon which Naresh said that he would be back in some time. Having a doubt of some fight, the complainant reached Dabua vegetable market near gate of Janta colony, near

jhuggi at about 11.50 p.m., where he saw that his brother Naresh was lying on the road in mud and Netar Pal was giving injuries to him with iron rod in his hand. Banwari was also giving injuries to Naresh with iron rod in his hand and Lutas, Chhotu, Satish Garhwali, Daulat Pandit, Chhaliya, Sunny Sardar and their other associates having iron rods, sticks, shocker in their hands were giving beatings to his brother, upon which he raised alarm and called for help. Then the accused persons with an intention to kill him, fired gun shots from their country made pistols and while firing in the air, they ran away from the spot. The complainant with the help of public took his brother to Fortis Hospital, NIT, Faridabad for treatment. In this fight, Deepak had also suffered injuries. The doctor declared his brother Naresh as dead. On these broad, allegations, the above FIR was registered.

Learned counsel for the petitioner contends that the FIR was lodged by Ravinder (eye witness) regarding the alleged offence of murder of his brother, namely, Naresh. It is pointed out that the occurrence took place on 09.09.2019 and the FIR was registered on 10.09.2020, and the complainant did not name the petitioner as an accused. He has further invited the attention of the Court to the order (Annexure P-6), whereby similarly situated accused, namely, Vinod @ Panji was granted the concession of regular bail vide order dated 17.9.2020. He submits that the charges were framed on 21.11.2019 and only three witnesses have been examined so far out of total twenty eight witnesses. He prays for grant of regular bail to the petitioner, during the pendency of the trial.

On the other hand, the prayer is opposed by the learned State counsel assisted by SI Udaypal on the ground that the offence is serious and

petitioner was also involved in the commission of the crime, however, it is not disputed that the co-accused of the petitioner was released on regular bail. He fairly states that case of the petitioner is at par with the said co-accused.

Considering the above background, this Court is of the opinion that similarly situated co-accused has already been granted regular bail by this Court and though the trial has commenced, but is at the initial stage with no possibility of its completion in near future, as still 25 prosecution witnesses remain to be examined. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the State governments of Punjab, Haryana and U.T. Administration, Chandigarh to impose various restrictions to clamp down the contagion, and it would further delay the conclusion of trial. Admittedly, the petitioner is not involved in any other case of similar nature. Thus, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 24.12.2019.

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/Duty Magistrate, concerned.

The petition is allowed.

April 22, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No