

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.42191 of 2021

Date of Decision: November 12, 2021

Shiv Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Aakash Singla, Advocate,
for the petitioner.

Mr.Anmol Malik, DAG, 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.45 dated 18.01.2020, under Sections 302, 506, 34 IPC, 1860 and Section 25 Arms Act, 1959, registered at Police Station, HTM Hisar, District Hisar, who is in custody since his arrest on 02.02.2020.

The contents of the FIR, as notice by the Additional Sessions Judge, Hisar in his order dated 27.09.2020 while dismissing the bail application of the petitioner, are as under:-

“This case was registered on a complaint made by Subash son of Ramdhari, resident of village Kirmara, District Hisar wherein he alleged that on 18.01.2020 at about 12.00 O’clock he alongwith Vinit son of his nephew Satyawan went to Hisar for some work. When they were in Red Square Market, Hisar, Vinit told him that birthday party of his friend Pankaj resident of Badopatti is being celebrated in Silent Cafe, Red Square Market, Hisar and his other friends have also assembled there.

Therefore, they both went to Silent Cafe where Vinit introduced him with Pankaj, Durgesh, Shiv Kumar, Sunil Jakhar, Sachin, Naveen and Paramjit. In the meantime, Raman Saharan, Akshey, Sarwan, Ravinder @ Cheeta and Pardeep alongwith 5-6 boys also came there and Vinit also introduced them to him. After sometime there was some altercation between Raman Saharan and Paramjit but they intervened and all of them left the cafe after party. Cafe owner also closed the cafe. When he and Vinit reached near Malhotra shoe shop behind Miraj Cinema, Raman Saharan, Akshey, Sarwan, Ravinder @ Cheeta and Parmajit alongwith 5-6 boys came and Raman Saharan exhorted that Vinit should not escape alive and he should be taught a lesson to save Paramjit. Upon this, 3-4 boys caught Vinit and Raman Saharan gave repeated knife blows on the back of Vinit with an intention to kill him. When he tried to save Vinit, aforesaid persons also gave him slaps and fists blows. When he raised alarm, friends of Vinit also came there. Accused ran away from the spot alongwith their respective weapons extending a threat to kill Vinit finding an opportunity in future. He shifted Vinit to Civil Hospital, Hisar but after first aid, he was referred to MAMC Agroha where he died during treatment. A request for taking necessary action against the accused was made.”

Learned counsel for the petitioner has argued that the name of the petitioner does not figure in the FIR and the other co-accused, namely, Sarwan and Akshey have already been released on bail vide order dated 17.09.2021 by this court. According to him, victim Vineet died due to the solitary injury given by co-accused Raman and the alleged occurrence took place after a birthday party. He submits that the petitioner was implicated as an accused on the basis of the disclosure statement made by co-accused Raman. He submits that the case of the petitioner is similar to the accused, who are on bail, so he prays that the petitioner be also released on regular

bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Sher Singh, but does not dispute that the case of the petitioner is at par with co-accused Sarwan and Akshey.

After hearing the learned counsel for the parties and considering the fact that similarly situated co-accused of the petitioner have already been released on regular bail, this court is of the opinion that 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 02.02.2020. Apart from it, the material witnesses are either close relatives of the victim or police officials and there does not seem to be any possibility of their being won over at this stage.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and 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/CJM/Duty Magistrate, Hisar.

November 12, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No