

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

CRM-M-38154-2020(O&M)

Date of decision : 18.01.2021

Abhi

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. S.S. Behl, Advocate for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Robin Dutt, Advocate for the complainant.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.118 dated 27.05.2020 under Sections 148/149/302/323/354-D/452 of the Indian Penal Code, 1860 registered at Police Station Chachrauli, District Yamuna Nagar.

The allegations set out in the FIR are that the complainant, Kajal, had made a complaint alleging therein that on 26.05.2020 at about 7.30 PM she, along with her sister-in-law (*Nanad*) Pooja, had gone to answer the call of nature in their *Bara* where Vishal, Vijay, Ravi, Rubi were already present. Pooja remained outside. Meanwhile the accused entered in the *Bara* and they started pushing Pooja. When the complainant intervened, they tore her clothes. Both Pooja and Kajal

somehow managed to save themselves and reached their house and narrated the whole story to their family members. It is further the allegation that when the family of the complainant, Kajal, and Pooja enquired from the family of above-named persons, many people from Balmiki community gathered there and started pelting stones and bricks on the houses of Harijan community. Out of those accused one was Rubi, Ram Saran, Mewa Ram, Vishal, Vijay Kumar, Ravi, Budh Ram, Naresh Kumar, Maya Devi, Abhi (present petitioner), Sorabh and Gaurav. In the incident, many persons received injuries. Mewa Ram and Vishal threw a stone which hit on the head of Sunita wife of Jaspal due to which she became unconscious. The said Sunita later is stated to have succumbed to the injuries. On the basis of the complaint, the present FIR was registered.

Learned counsel for the petitioner would contend that no specific role has been attributed to the petitioner and that he is innocent and has been falsely implicated in the present case. He would further contend that there is no previous enmity between the accused and the deceased. He has further contended that the challan has already been presented and the petitioner has been in custody since 27.05.2020.

Learned counsel for the State on instructions from SI Prithvi Singh has stated that the petitioner has specifically been named in the FIR though no specific role has been attributed to him. Learned counsel for the State would further contend that some boys had pushed Pooja. Thereafter when Kajal came out from the toilet, her clothes were also torn. When the family of the said boys were questioned, the members of

Balmiki community starting pelting stones on the houses of Harijan community. The petitioner is alleged to be a part of that mob and has specifically been named in the FIR.

Mr. Robin Dutt, learned counsel appearing on behalf of the complainant has stated that there is no reason for falsely implicating the present petitioner inasmuch as it is the case of the petitioner that there is no previous enmity between the deceased and the accused. Learned counsel for the complainant would further contend that the petitioner was very much part of the unlawful assembly which led to the death of Sunita. It has further been contended that the petitioner has specifically been named in the present FIR.

I have heard learned counsel for the parties.

In the present case, two young ladies namely, Kajal and Pooja, had gone to answer the call of nature in their *Bara* where four people namely, Vishal, Vijay, Ravi and Rubi were already present. They started pushing Pooja. When the complainant, Kajal, intervened, they tore her clothes too. When the family of these boys were confronted by the family of two ladies, a mob allegedly belonging to the Balmiki community, to which the said four accused namely, Vishal, Vijay, Ravi and Rubi also belonged, collected outside the house of the complainant and started pelting stones at the houses of members of the Harijan community to which the complainant Kajal and her sister-in-law, Pooja, belonged. As a result of pelting of the stones, the deceased-Sunita was hit on the head with the stones and ultimately succumbed to her injuries.

The petitioner has specifically been named in the FIR though no specific role has been attributed to him and the witnesses are yet to depose. The bail petition of the co-accused bearing CRM-M No.34629 of 2020 was also dismissed as withdrawn vide order dated 09.12.2020.

In view of the above, I do not deem this to be a fit case for grant of regular bail to the petitioner. Hence, the present petition is dismissed.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

18.01.2021
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO