

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-38279-2020 (O&M)

Date of Decision:-9.4.2021

Naseem Ali

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by SI Om Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

CRM-11289-2021

In view of the reasons mentioned in the application, the same is allowed and the documents annexed with the application are taken on record as Annexures P-9 and P-10 subject to all just exceptions.

CRM-M-38279-2020 (Main Case)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.186 dated 10.9.2019 at Police Station Bahadurgarh, District Jhajjar under Sections 302/323/506/34 of Indian Penal Code.

2. The FIR in question was lodged at the instance of Sikander wherein it has been alleged that he is working as a Labourer and that his brother-in-law Manoj who also resides with him at Kundli and was looking for work went to meet Niranjan on 8.9.2019. It is alleged that on the said day i.e. on 8.9.2019 Manoj had a fight with Naseem (petitioner), Asif and Ashraf in the Steel factory where Naseem gave a blow with a pipe on head of Manoj while Asif and Ashraf gave kicks and fist blows to Manoj. The said facts are stated to have been disclosed to complainant by Niranjan. It is further the case of prosecution that although the aforesaid Manoj was taken to hospital but he succumbed to his injuries.
3. The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case, as would be evident from the rather inconsistent versions of the complainant and Niranjan as regards nature of weapon allegedly used and also from the medical evidence which does not support the case of the prosecution at all. It has been submitted that the complainant Sikander is not an eye-witness since as per the FIR itself, the information regarding the incident had been furnished to him by his brother-in-law Niranjan. The learned counsel for the petitioner has further submitted that although as per the FIR, the fatal blow had been inflicted by accused Naseem (petitioner) with an 'iron rod' but in the statement of Niranjan recorded under Section 161 Cr.P.C. the blow had been given with a 'wooden plank'.
4. The learned counsel for the petitioner, while referring to medical record dated 11.9.2019 (Annexure P-3) has submitted that when the deceased was taken to hospital by the aforesaid Niranjan, who had witnessed the incident, he furnished information to the effect that the deceased had received injury

on account of fall. The learned counsel has further submitted that in the postmortem report (Annexure P-4), although the cause of death has been opined to be a head injury sustained by the deceased and the consequent complications but it is specifically recorded therein in the 'death summary' that the deceased Manoj was under influence of alcohol and had fallen on ground. The learned counsel for the petitioner has, thus, submitted that apparently it is a case where the deceased was under influence of alcohol and had died as a result of fall but now the accused are being framed falsely.

5. The learned counsel for the petitioner has further submitted that the falsity of the case of the prosecution would be evident from the fact that when the star witness of the prosecution i.e. PW-2 Niranjan was examined, he has clearly refused to identify the petitioner and has categorically stated that the petitioner Naseem Ali is his co-villager and that he had not caused any injury to Manoj Kumar. The learned counsel for the petitioner has further submitted that even PW-3 Ranjit Kumar, who is also working in the same factory, has also stated that the petitioner had not caused any injury to Manoj Kumar.
6. Opposing the petition, the learned State counsel has submitted that since the petitioner is specifically named in the FIR and he is also attributed an injury on the head of the deceased, no case for grant of bail is made out. The learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last 1 year and 6 months and that he is not involved in any other case.
7. I have considered rival submissions addressed before this Court.
8. Having regard to the fact that PW-2 Niranjan had earlier gave different versions as regards the nature of weapon used for commission of the alleged

offence and has infact totally resiled from his statement, when he was examined during the proceedings of trial and even PW-3 Ranjit Kumar has not stated a word against the petitioner and while also noticing that the co-accused have since been released on bail and the petitioner has been behind bars since the last about 1 year and 6 months and is not stated to be involved in any other case, further detention of the petitioner will not serve any useful. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9.4.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No