

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

**CRM-M-41396 OF 2020 (O&M)  
DATE OF DECISION : 26.03.2021**

**Gurdeep**

**...Petitioner**

**versus**

**State of Haryana**

**...Respondent**

**CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Deepak Singh Saini, Advocate,  
for the petitioner.

Ms. Mamta Talwar, DAG, Haryana.

**(Presence marked through video conference).**

**ARUN MONGA, J. (ORAL)**

**CRM-8062 OF 2021**

For the reasons stated in the application, same is allowed and documents are taken on record, subject to all just exceptions.

**MAIN CASE**

This is second foray of the petitioner to seek regular bail in case FIR No.211 dated 21.05.2019 registered under Sections 148/149/323/341/506/302/216 IPC at Police Station, Kurukshetra University, District Kurukshetra. Earlier bail petition was dismissed as withdrawn vide order dated 03.09.2020 passed by this Court in CRM-M-23058 of 2020.

2. Per FIR allegations, on 20.05.2019, Aditya Sharma (complainant) along with his friend Anish Bansal (since deceased) had gone to take examination in Pharmacy Department, Kurukshetra University, from

9.30 AM to 12.30 PM. After that both of them left on a motorcycle of Anish Bansal bearing registration No. HR-07-X-6065, the complainant was a pillion while his friend was riding it. As they came out of the department, Khushal, a fellow student stopped the motorcycle. He also gave lalkara that complainant and his friend be caught and taught a lesson. Accused Khushal was allegedly accompanied by Gagan Gaba, Monu Malik @ Wazir, Rajesh Ajrawar, Mukesh Saini, Nitesh Chahal, Yamuna Nagar, Mayank Safidon and other 3/4 boys armed with dands, bindas and rods. All of them gave banda blows and fist blows to them. Anish Bansal suffered serious injuries which resulted in his death. All the accused including the petitioner were arrested.

3. The petitioner is stated to be in custody since 18.06.2019.

4. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the case. He was neither named in the FIR nor even in the subsequent statement made by father of the deceased/victim. He further contends that petitioner has been involved in the case on the basis of custodial disclosure statement of the co-accused, which is not admissible in evidence. He further contends that the alleged occurrence took place on 20.05.2019, whereas the FIR has been registered on 21.05.2019. There is inexplicable delay in lodging the FIR.

5. Learned counsel further contends that petitioner is a student of B.Pharmacy and is not having any criminal antecedents as no other case is pending against him.

6. Learned counsel for the petitioner further strenuously argues that, apart from other grounds, the petitioner, on the sole ground of parity is entitled to be released on bail other co accused have been granted bail vide order dated 15.02.2021 passed in CRM-M- 28714 of 2020 (Annexure P-7). He submits that case of petitioner is on better footing than the co-accused, who have already been accorded the benefit of bail.

7. Per contra, learned State counsel opposes the bail plea. He, inter alia, argues that petitioner was arrested on the basis of disclosure statement made by the co-accused.

8. I have heard rival contentions of both the learned counsel.

9. The case in hand seems to be a brawl amongst the young students, turned ugly with unanticipated consequences much to the shock of all involved. Perhaps a few youth gone astray during an unlawful assembly.

10. Be that as it may, the same is for the trial Court to adjudicate, based upon the evidence to be adduced.

11. Even though the trial is going on, but its pace is slowed down due to the pandemic. Same is not likely to conclude anytime soon. On the other hand, petitioner is on the cross roads of his life and his entire career is at stake. Any further preventive custody, would severely jeopardize his future prospects.

12. On query of the Court, learned counsel for the petitioner submits that the material witnesses i.e complainant and father of the deceased victim, have already been examined. He has placed on record their testimonies. Learned counsel for the petitioner reads out the testimony of

PW-14/complainant, in the course of arguments, in support of his contention that, not only bail, but it is a fit case for acquittal qua the petitioner, inasmuch as, neither he was named in the FIR, nor even otherwise, the material prosecution witnesses have supported the prosecution version of his being present at the time of incident leading to the unfortunate death of a fellow student. Death resulted out of physical assault/beating up of the deceased, pursuant to scuffle amongst the students.

13. Considering the overall scenario, I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody. In the premise, without commenting on the merits of the case, the instant petition is allowed.

14. The petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be.

15. It is, however, made clear that anything observed in the instant order is only for the purpose of bail and shall not be construed, in any manner, as an expression on the merits of the case. The trial Court to proceed without being influenced by the same.

**MARCH 26, 2021**  
Shalini

**(ARUN MONGA)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No