

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-47338-2021

DATE OF DECISION: NOVEMBER 17, 2021

MUKESH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. GAURAV GUPTA, ADVOCATE
FOR MR. AMIT CHOUDHARY, ADVOCATE
FOR THE PETITIONER.

MR. MANISH DADWAL, 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.134 dated 17.5.2021, under Section 147, 149, 302 IPC (Section 147 IPC deleted and Section 148, 365 read with Section 149 IPC and Section 25 Arms Act added later on). The petitioner is in custody since his arrest on 1.6.2020.

During the course of hearing, learned counsel for the petitioner submits that inadvertently the order dated 19.10.2021, declining the bail application of the petitioner was not tagged with the petition and order (Annexure P-6) pertains to the co-accused. He has produced the copy of the order dated 19.10.2021, whereby the petitioner's bail application was dismissed by the Court of Sessions and prays for taking the same on record.

Learned State counsel does not oppose the said prayer.

Accordingly, the order of the trial Court dated 19.10.2021,

dismissing the bail application of the petitioner is taken on record.

The allegations contained in the FIR as noticed by the Sessions Judge, Fatehabad, in the order dated 19.10.2021, are as under:-

“As per prosecution case, complainant Jagdeep Singh @ Buggi suffered his statement before police to the effect that on 16.05.2021 at about 8:00/8:30 p.m. he, Hardeep and his uncle Gurdev Singh’s son namely Sanjay Kumar @ Bhokal were sitting near Gurudwara in village Ayalki. At that time, six boys on two motorcycles came there and stopped their motorcycles in front of house of Rahul @ Vikas. Love was driving one motorcycle, upon which Akash and Shankar were sitting as pillion riders, whereas Aman was driving other motorcycle, upon which two unknown boys were sitting as pillion riders. Then, Akash called Rahul @ Vikas to come out of his house and started giving beatings to him. On seeing the quarrel, his cousin Sanjay @ Bhokal, who is friend of Rahul @ Vikas, went to rescue him (Rahul @ Vikas). Akash was having knife in his hands and he gave knife blows into abdomen of Sanjay. Aman was having baseball bat and he gave baseball bat blows on back and shoulder of Sanjay. Shankar and two other unknown boys were having Dandas and they gave Danda blows on back, hips and other parts of body of Sanjay. Love also gave slaps, fist and kick blows to Sanjay. Sanjay fell down in drain pipe and he raised noise for help. On seeing the quarrel, he (complainant) and Hardeep went to spot and then, all the assailants alongwith their respective weapons fled away from there on their motorcycles. The motive behind this assault was that about seven months ago, Sanjay @ Bhokal had given a chit of mobile phone number to sister of Aman and said matter was resisted by Aman and his family members, which later on was settled at

brotherhood level and due to this grudge, Akash, Aman, Shankar, Love and two other boys by forming unlawful assembly and in furtherance of their common object had committed murder of Sanjay Kumar @ Bhokal. Complainant prayed for taking appropriate action against the accused persons.”

Learned counsel for the petitioner has argued that the petitioner was not named in the FIR and has been indicted as an accused only on the disclosure statement made by the co-accused. According to him, the solitary knife blow was given by co-accused Akash, whereas the other two accused, namely, Love and Shankar were found innocent. Learned counsel further submits that the case of the petitioner is at par with his co-accused Virender Singh @ Gyani, who was similarly situated and has already been released on regular bail by this Court vide order dated 28.9.2021 (Annexure P-4), passed by this Court and therefore, the petitioner also deserves the said concession.

On the other hand, learned counsel for the State assisted by SI Mahender has opposed the aforesaid prayer on the ground that the petitioner was the member of the unlawful assembly. However, it is not disputed that the similarly situated co-accused has been released on bail by this Court on 28.9.2021.

Considering the above background, custody of the petitioner and the fact that the case of the petitioner is at par with his co-accused Virender Singh @ Gyani, who has been released on regular bail, this Court is of the opinion that 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 1.6.2020 as the trial of the case is likely to

consume considerable time to conclude.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

November 17, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No