

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

CRM-M-38257-2019 (O&M)

Date of decision: 10.03.2021

Rakesh @ Fauji

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Rajesh Bansal, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J. (Oral)

This petition for regular bail has been filed by petitioner Rakesh @ Fauji, an accused in FIR No.56 dated 23.03.2019, for offences under Sections 302 and 34 of IPC (Sections 302 and 34 of IPC have been deleted and Section 304 IPC added later on), registered with Police Station Israna, District Panipat.

Briefly stated the prosecution story is that, on 22.03.2019 at about 4.30 PM, Manoj son of Karan Singh and Rakesh were involved in a scuffle with inhabitant of Village Urlana; Jaipal, brother of the complainant Karam Singh was also present at the spot and he had intervened to rescue the said villager asking from Rakesh and Manoj as to why they were quarreling with him; hearing that Rakesh and Manoj attacked Jaipal and gave beatings to him by giving fist blows, slaps and kick blows; though Sombir and Amit rushed forward to save Jaipal but

they were pushed aside; complainant Karam Singh had also reached at the spot; Karan Singh son of Jeetu and father of Manoj also arrived at the spot and raised lalkara that Jaipal should be killed; many people gathered at the spot; complainant took Jaipal to Hyderabad Hospital, Panipat, however, on the way, he succumbed to the injuries suffered in the incident; on matter being reported to the police, formal FIR was registered; the investigation in the case started; petitioner/accused Rakesh @ Fauji was arrested in this case on 25.03.2019, however, the other persons named as culprits in the FIR were found to be innocent; subsequently, offence U/s 302 read with Section 34 IPC was deleted and offence under Section 304 IPC was added. On completion of investigation and other formalities, the challan against accused Rakesh @ Fauji was prepared and filed in the Court.

The petitioner had moved a petition for regular bail before Sessions Judge, Panipat, however, the same was dismissed, vide order dated 13.08.2019. As such, the petitioner has approached this Court, craving for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has contended that Jaipal was suffering from heart ailments and had undergone bypass surgery at G.B. Pant Hospital, Delhi on 08.03.2019 from where, he was discharged on 14.03.2019 and he had died on 22.03.2019 on account of suffering a heart attack; the petitioner/accused has been wrongly involved in this

case. He has further contended that these contentions raised before learned Sessions Judge, were duly noticed in the impugned order but were not taken into consideration while denying the regular bail to the petitioner. He has submitted that no injury was found on the dead body of deceased Jaipal, which falsify the version of the prosecution that he had been given beatings by the petitioner and other co-accused.

On being asked, ld. State counsel, has stated that in the FSL report, no poison was detected and as per opinion given by Dr. Narayan Dabas, M.O. Civil Hospital, Panipat, the death took place due to complications of the chronic heart disease, though, contusion over right thigh and iliac chest was fresh and ante-mortem and could be inflicted due to blunt force trauma.

After hearing the rival contentions, since two of the co-accused of the petitioner who have been summoned under Section 319 Cr.P.C., namely Karan and Manoj are stated to be granted pre-arrest bail by this Court today itself; the trial is at initial stage; its conclusion is likely to take some time; the petitioner is behind bars for almost 02 years with no immediate chances of conclusion of trial in near future; his guilt shall be determined during the trial, I find it a fit case to grant regular bail to the petitioner. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of trial Court/CJM/Duty Magistrate, Panipat, subject to the following conditions:-

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the

prosecution witnesses;

(iii)he shall not indulge in any criminal activity;

(iv)he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard;

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

10.03.2021

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No