

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.52497 of 2021

Date of Decision: December 21, 2021

Rinku

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.V.B.Godara, Advocate,
for the petitioner.

Mr.Bhupender Singh, DAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.134 dated 17.05.2021 registered under Sections 148, 147, 302, 365 read with Section 149 IPC, 1860 and Section 25 Arms Act, 1959, at Police Station Sadar Fatehabad, District Fatehabad, who is in custody since his arrest on 01.06.2021.

The allegations contained in the FIR and noticed by the learned Sessions Judge, Fatehabad in the order dated 22.10.2021 while dismissing the bail application of the petitioner, read as under:-

“As per prosecution case, complainant Jagdeep Singh @ Buggi suffered his statement before the 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 then Aman and his family members had resisted that matter, 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. On this statement and medical ruqqa of brought dead, present FIR under Sections 147, 302 read with Section 149 of IPC was registered.”

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 during investigation. He submits that the similarly situated co-accused have already been extended the concession of regular bail by this court vide orders dated 28.09.2021 and

17.11.2021 (Annexures P-3 and P-4) and, therefore, the petitioner also deserves the said concession.

On the other hand, learned State counsel, assisted by ASI Krishan Kumar, has opposed the prayer, who has argued that the petitioner was a member of the unlawful assembly and the statement of co-accused has clearly established his presence at the spot. However, it is not disputed that on the basis of disclosure statement made by co-accused, the petitioner has been arraigned as an accused and the co-accused have been granted the concession of regular bail.

After hearing the learned counsel for the parties, considering the above background and the fact that similarly situated co-accused of the petitioner have already been released on regular bail, this court is of the opinion that the further detention of the petitioner behind the bars may not serve any useful purpose. Apart from it, the prosecution witnesses are either the close relatives of the victim or the police officials and there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Fatehabad.

December 21, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No