

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-724-2022
Date of decision: 27.04.2022

Ashok @ Seru

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ishant Khangwal, Advocate and
Ms. Harshita, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 637 dated 27.07.2020, registered under Sections 149, 148, 323, 341, 302 and 120-B of the IPC at Police Station City Panipat, District Panipat.

Learned counsel for the petitioner, at the very outset, relies upon order dated 23.02.2021 passed in CRM-M-43278-2020 and one other connected petition, vide which co-accused Deepak and Ajay @ Naresh have been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned counsel for the petitioners have relied upon orders dated 14.12.2020 and 13.01.2021 passed in CRM-M Nos. 40831 of 2020 and 929 of 2021, respectively, vide which co-accused Prem @ Goga and

Darshana @ Bunni have been granted concession of regular bail by this Court. The operative part of the order dated 13.01.2021 reads as under:

“Counsel for the petitioner has relied upon the order dated 14.12.2020 passed in CRM-M No.40831 of 2020 vide which one of the co-accused of the petitioner namely Prem @ Goga, was granted the concession of regular bail by passing the following order:-

“Counsel for the petitioner has submitted that as per the version given in the FIR registered at the statement of Pritam Singh, he received an information that his nephew Manpreet @ Sonu is lying in an injured condition near Tau Devi Lal Complex Gali near Sai Tower. His nephew was working in an A.C. shop. It is further stated in the FIR that the complainant, at his own, found that initially Anil, Aashu, Vicky and Suraj residents of Jagjeevan Ram Colony Panipat, came on a Scooty and had a fight with Manpreet @ Sonu yesterday night at Mahabir Colony. Thereafter, Sunny, Ajay, Golu and Prem @ Goga (petitioner), Deepak, Suman, Darshana, Ashok and some other persons came on their motorcycles armed with sticks and attacked Manpreet @ Sonu with intention to kill him, which led to his death.

Learned counsel for the petitioner has submitted that after registration of the FIR, police has recorded a supplementary statement of complainant – Pritam Singh, in which he has stated that he has a DVD/video clipping regarding the incident, when his nephew

Manpreet @ Sonu was murdered. It is stated in the statement dated 29.07.2020 that accused can be seen attacking his nephew Manpreet @ Sonu. Learned counsel for the petitioner has argued that in fact, there was two incidents which have come in the disclosure statements of main accused Aashu @ Sahil, Anil @ Nilu and Sunny. Counsel has referred to their disclosure statements, wherein they have stated that on 26.07.2020 at night, as per their plan, they were proceeding to the A.C. shop of Manpreet @ Sonu and along with them, there were nine other persons including petitioner Prem @ Goga. When they reached there, Manpreet @ Sonu and five of his friends were going after closing the shop, accused persons attacked them, on which Manpreet @ Sonu and his friends ran away from there. It is further stated in the disclosure statements of these accused that four of them i.e. Aashu @ Sahil, Anil @ Nilu, Sunny and Vicky stayed there with intention to kill Manpreet @ Sonu and they conspired together and prepared a plan that they will go on a scooty to find him. Thereafter, they found Manpreet @ Sonu running near Tau Devi Lal Complex Gali near Sai Tower and all of four followed him on scooty and hit him with sticks and caused injuries, due to which he loss his consciousness.

Learned counsel for the petitioner has argued that in fact, there were two incidents, the petitioner along with nine other persons were referred to as accused in the first incident,

when deceased – Manpreet @ Sonu ran away and in the second incident, four persons named above caused him fatal injuries. Learned counsel further submitted that even the place of both the incidents are different. It is further argued that the petitioner is nowhere seen in the CCTV/video footage, which is submitted by the complainant while giving his supplementary statement and therefore, presence of the petitioner at the spot is highly doubtful. Counsel has lastly argued that even, while submitting the report under Section 173 (2) Cr.P.C., the police has submitted the challan against the petitioner under only Sections 148, 149 and 323 of IPC.

In reply, learned State counsel has not disputed the factual situation, however, submitted that mere mentioning of sections while submitting the challan, may not be relevant at that stage as the same are to be seen at the time of framing of the charge.

After hearing the learned counsel for the parties and considering the submissions made by them, I find it to be a fit case to grant concession of regular bail. Thus, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.”

Counsel for the petitioner has further submitted that as per allegations in the FIR, 04 male persons i.e. Ashu @ Sahil, Anil @ Nolu, Sunny @ Nota and Vicky were there, who caused the injuries to the deceased Manpreet @ Sonu. It is also submitted that the petitioner was allegedly name in the first incident and was not even present when the second incident took place when the injuries were caused to the victim. It is further argue that the petitioner is a household lady and is not involved in any other case.”

Learned counsel for the petitioners further submitted that the petitioners were nominated in the first incident and they were not present when the second incident took place and injuries were caused to the victim.

Learned State counsel has filed the affidavit of Inspector/SHO, PS- City, Panipat, wherein it is stated that on verification of the fact, four persons, namely Sunny s/o Madan, Ashu @ Sahil, Anil @ Nolu and Vicky were found to have caused the fatal injuries to victim as per the CCTV footage and scene of the crime.

In reply, learned counsel for the complainant submitted that the petitioners along with aforesaid four persons had a common intention to commit the offence.”

For the sake of brevity, the facts are not reproduced again.

Learned counsel for the petitioner submits that the petitioner was nominated in the first incident and he was not present at the time of second incident when the injuries were caused to victim.

Reply, filed by way of affidavit of the Investigating Officer, is on record, wherein it is stated that the FIR was registered against 12 persons, out of whom, four persons namely Sunny, Ashu @ Sahil, Anil @

Nolu and Vicky, were found to be the part of the second incident, when the injuries were caused to victim Manpreet @ Sonu, which resulted into his death.

Learned counsel for the petitioner further submits that the petitioner is in judicial custody for the last 01 year, 08 months and 25 days and he is not involved in any other case.

Learned State counsel has filed the custody certificate and has not disputed the factual position and it is submitted that the charges have been framed, however, no prosecution witness has been examined so far.

After hearing learned counsel for the parties, in view of the aforesaid affidavit of the Inspector/IO, this Court finds that the issue whether the petitioner had a meeting of mind with aforesaid four accused, who committed offence of causing fatal injuries to the victim, is to be seen during the course of trial.

Accordingly, the present petition is allowed and petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate concerned.

However, it is made clear that the observations made herein are only for the purpose of deciding the present petition and the same have no bearing on the merits of the case.

27.04.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No