

110

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-4363-2022 in/and
CRM-M-1464-2022 (O&M)
Date of Decision:14.02.2022

Binder @ Dharambir

.. Applicant/Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rakesh Lathwal, Advocate for applicant-petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

CRM-4363-2022

The instant application is for pre-poning the date of hearing of the main petition to an early date.

Notice in the application.

At this stage, Mr. Sukhdeep Parmar, DAG, Haryana, accepts notice on behalf of the respondent-State and does not oppose the prayer.

Application is allowed and the date of hearing is pre-poned to today.

CRM-M-1464-2022 (O&M)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.613 dated 22.10.2019 registered under Sections 148, 149, 302, 323, 324 (Section 307 IPC added later on) and Section 25 Arms Act, 1959 at Police Station City Sonipat, District Sonipat. The petitioner is in custody since his arrest on 27.11.2019.

The FIR was registered on the statement of Roshni and the allegations as noticed by the ld. Addl. District and Session Judge, Fast Track Court, Sonipat in the order dated 05.01.2022 are as under:

“As per version of the prosecution, allegations against the applicant/accused are that on 21.10.2019, an information was received from Civil Hospital, Sonipat regarding admission of Pawan and Manoj in the said hospital with history of having sustained injuries in a fight and regarding the fact that the patients have been referred to PGIMS Khanpur. Upon this the Investigating Officer reached at General Hospital, Sonipat and obtained medico legal report of the victim. The doctor on duty handed over sealed parcels to the Investigating Officer. Thereafter, the Investigating Officer reached PGIMS Khanpur, where doctor declared victim Pawan fit for making the statement while victim Manoj was stated to have been brought dead to the hospital. Investigating Officer reached near the bed of victim where he presented a complaint to the Investigating Officer. In this complaint he stated to the effect that on 20.10.2019, his aunt Poonam wife of Diwan was picking up bricks from the roof of his house without his permission. He stopped her from doing so. He further alleged that because of acrimony of this incident Ajay, Vijay and Dhannu sons of Diwan, Binder, Sachin, Vicky wife of Mahabir, Poonam Santra and Dhammu came in the street in front of complainant's home after hatching conspiracy. They raised a lalkara that the victim would be taught a lesson for stopping Poonam from picking up the bricks. Upon hearing the noise, complainant and his brother Manoj came out of their house. Accused Vijay gave a knife stab in the chest of Manoj (since deceased). Ajay and Sachin also gave knife blows to the complainant. Upon hearing the noise of victims, their mother rushed at the spot and she was also assaulted by the assailants. Thereafter, the father of the complainant Ved Parkash reached at the spot and shifted complainant and his brother to hospital. Complainant further alleged that due to beatings and causing injuries by the accused persons his brother has died.”

Learned counsel for the petitioner has argued that the case of the prosecution hinges upon eye-witness evidence and according to the prosecution, except for the presence of the accused, no other specific role has been attributed to him. He submits that as per complainant Pawan, he sustained injuries at the hands of accused Ajay and Sachin, who gave knife blows to him, whereas his brother Manoj was given knife blow by accused

Vijay resulting in his death. According to learned counsel, the other accused persons had given kick and fist blows. He has further drawn the attention of the Court to the statements of prosecution witnesses recorded under Section 161 Cr.P.C. and submitted even there is no accusation against the petitioner that he had given kick and fist blows. He prays for regular bail.

Learned State counsel assisted by ASI Amit Kumar, has opposed the prayer, who has argued that the petitioner is specifically named in the FIR and being a member of the unlawful assembly, he also participated in the crime. However, he is unable to refute the argument raised by the learned counsel for the petitioner that the petitioner is not of those accused, who had given the fist and kick blows to the victim. According to him, in all, there are twenty one prosecution witnesses and only three have been examined so far and the case is coming up for recording the prosecution witness on 15.02.2022.

After hearing the learned counsel for the parties, considering the above background as well as the custody of the petitioner, this Court is of the opinion that the trial is likely to consume considerable time to conclude, as eighteen prosecution witnesses still remain to be examined and the material witnesses are either the close relatives of the victim or police officials and at present, there does not seem to be any possibility of their being won over. Thus, 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.

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/Duty Magistrate concerned.

The petition is allowed.

14.02.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No