

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

CRM-M-2677-2021 (O&M)

Date of decision: 28.01.2022

Lakhan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Baldev Singh Badhran, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

(Through video conferencing)

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. 015 dated 13.01.2020, registered under Sections 302 and 34 of the IPC at Police Station Civil Lines Karnal, District Karnal.

Learned counsel for the petitioner submits that the FIR was registered on the statement dated 13.01.2020 of complainant Raj Pal to the effect that on the intervening nights of 12-13.01.2020, his son, namely Sawan was going with his two friends, namely Gaurav and Sagar and in the meantime, they reached near a tea stall outside KC Medical College, Karnal to meet Supervisor Ravi, who was not there. When they were waiting for him, in the meantime, two persons came on a motorcycle and had an altercation with Sawan and they started abusing him. In the meantime, one of the accused lifted a piece of wood and gave a blow on the head of Sawan and he fell down. Thereafter, other accused also gave kick blows to him. It

is further stated in the FIR that the name of the accused persons was disclosed to complainant/father of Sawan by his nephew Sagar as they were know to him. Thereafter, Sagar and Gaurav took Sawan to the house of the sister of complainant and they went to sleep. In the morning, when the sister of the complainant tried to wake him up, Sawan did not response and he was shifted to a hospital, where he was declared brought dead.

Learned counsel further submits that co-accused of the petitioner, namely Deepak, has already been granted the concession of regular bail by this Court, vide order dated 21.12.2020 passed in CRM-M-20179-2020. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Rajpal, his elder son Sawan is employed in Municipal Corporation, Karnal and his nephew Sagar told him about death of his son Sawan. It is further informed by Sagar that on 12.01.2020, he along with one Gaurav and Sawan started drinking liquor during day time and consumed liquor till 1.30 AM in late night. Thereafter, all three went to meet supervisor of his son namely Ravi on a tea stall near Kalpna Chawla Govt. Medical College, Karnal but the supervisor did not meet them. When they were returning back to home, two boys came on a motorcycle and started abusing them. In the meantime, one of the boy lifted a long piece of wood and gave blow on neck of his son and he fell down and the second boy also gave kick blows. The complainant has further stated that his nephew told the name of two boys as Lakhan and Deepak (petitioner). It is further stated that thereafter, two boys fled away and his nephew Sagar and Gaurav offered water to his son, but he became unconscious and then, they took him to the house of complainant’s sister

namely Sheela, where all them slept. In the morning, it was noticed that Sawan has died.

Learned counsel for the petitioner has argued that it is own case of the petitioner that even if some injury was caused, but he has not been given any medical aid and he died later on. During the investigation, the police has found that fatal blow was caused by co-accused Lakhan. It is further submitted that the petitioner is in custody since 15.01.2020 and the prosecution evidence has not started due to COVID-19 situation.

Learned State counsel, on the basis of affidavit of Inspector/SHO, Police Station Civil Lines, Karnal, has, however, opposed the prayer for bail on the ground that both, the petitioner and Lakhan are accused for causing death of Sawan. It is submitted that as per post-mortem report, possibility of sustaining the injuries by wooden stick, cannot be ruled out. It is further submitted that motorcycle has been recovered from the petitioner, which was allegedly used in the offence.”

Learned counsel for the petitioner further submits that now the statement of both the witnesses, Gaurav and Sagar, as well as the complainant has been recorded and there are variations in the versions given by these three witnesses.

Learned counsel has referred to the statement of complainant Raj Pal, who appeared as PW-2 to submit that in his cross-examination, he has stated that no complaint was given to police immediately after the incident as the deceased had gone to the house of the sister of complainant, where he slept along with his aforesaid two friends.

Learned counsel further submits that petitioner is in judicial custody for the last about 02 years and out of total 16 prosecution witnesses,

only 05 witnesses have been examined so far and the trial is delayed due to COVID-19 situation.

Learned counsel further submits that all the three material witnesses have already been examined and there is no possibility of tampering with the prosecution evidence as the remaining witnesses are the official witnesses.

Learned State counsel, on the basis of the affidavit of the Investigating Officer, has stated that during investigation, it was found that it is the petitioner who has given a blow to victim with a piece of wood and later on, he had died.

Learned State counsel further submits that out of total 16 prosecution witnesses, only 05 witnesses have been examined and the case is fixed for prosecution evidence.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody for the last about 02 years; all the three material witnesses have already been examined; co-accused Deepak has already been granted the concession of regular bail as noticed above and also in view of the fact that there are variations in the statement of PW-2 and the two eye-witnesses, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

28.01.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No