

CRM-M-3993-2022

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

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Date of decision: 07.02.2022

Sahil Singh Bhadoriya @ Sahil

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Bhaskar Upadhaya, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks regular bail in case bearing FIR No.30 dated 12.02.2021, registered at Police Station Sector 6, Dharuhera, District Rewari, under Sections 302, 452 and 34 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and Section 25 of the Arms Act, 1959.

Learned counsel for the petitioner contends that all the material prosecution witnesses have since been examined and there is a bleak chance of hampering the investigation or influencing the witnesses in any manner, and that there are material contradictions in the statement of the complainant with regard to the number of injuries caused to the deceased and further informing the incident to PW 5 Mahender Partap Singh, landlord, by the complainant. He places emphasis on the following

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extract of the deposition of the complainant:

“15. The verbal spar as stated by me in my examination-in-chief had taken place on 11.2.2021 at around 8/9.00 P.M., when we both friends were preparation for dinner. At that time I was unwell and was lying in the room that was being used by us as bedroom. I did not hear or witness anything with regard to the said car. I cannot say as to which of the accused had misbehaved with the deceased. Mamta had told me that the accused were ill mannered and ill behaved. She had never said so earlier. Volunteered the accused used to knock at the door in odd hours at 10/11.00 P.M. They had been behaving in this manner even when I was staying alone and had been persisting with their activities till the date of occurrence. I had complained of the conduct of accused to the house owner twice. I do not know the name of the house owner, who had told me to approach her, if any such act of knocking at the door was ever repeated by the accused.....:

16. XXXX

17. Whatever has been stated by me today was told by me to the police while presenting application Ex.PW 2/A. I had told the police in the said application that I had locked myself inside the bedroom. I had also told the police in the said application that Sahil had throttled me and had attempted to murder me. I had told in the said application that we had been shifted to the hospital by the police. I had told to the police that there had been a verbal spar a day prior to the occurrence. (confronted with the contents of Ex.PW 2/A wherein it is not so mentioned).

XXXX by Sh. Satish Kumar and Bhaskar Upadhyay, counsels for accused Sahil.

18. I do not know the surnames of accused persons or their parentage or their residential addresses. I had got

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incorporated the said credentials about the accused in application Ex.PW 2/A having over heard the same from the persons who were present in the hospital, however, I do not know the names of said persons who had been over heard by me. I or my deceased friend had never disclosed any of our credentials to any of the accused. We had not disclosed about our caste either.....”

Learned counsel for the petitioner further contends that no independent witness was joined in the investigation at any stage. On these premise, the learned counsel prays for the grant of bail to the petitioner.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner for the grant of bail, submits that the petitioner is the prime accused and the oral evidence led by the prosecution is duly corroborated with the mobile tower location of the petitioner vide which he was found present at the spot. He further submits that there is no material contradictions in the statement of the complainant and even if there is any contradiction in the statement, the same cannot be considered while deciding the petition for regular bail.

I have heard the learned counsel for the parties.

As per the prosecution, the petitioner alongwith co-accused Ankur was residing on the upper portion of a rented premises where the complainant alongwith her friend Neha @ Mamta Bharti was residing. Both the accused entered the room of the complainant while carrying knives and attacked Neha following which she had died. The accused also attempted to kill the complainant by throttling.

In the present case, complainant/eye-witness while appearing before the trial Court as PW 2, has specifically stated that the petitioner

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alongwith other co-accused had barged inside the apartment; that both of them were wielding a knife each; that they had assaulted with their respective knives on her friend and had inflicted injuries on her neck, and that accused-Sahil moved towards her and strangled the complainant, but somehow she had entered the other adjoining room. Similarly PW 3 Vivek, brother of the deceased has specifically stated that on 12.02.2021, he received a telephonic information that two boys, namely, Ankur and Sahil, who were staying on the floor above the floor on which his sister was residing, had assaulted his sister with knife on the neck and she had died as a consequence of the injuries suffered by her. PW 4 vinay Kumar, father of the deceased, has also deposed in the same lines as of PW 3.

So far as the contentions of the learned counsel for the petitioner with regard to non-joining of the independent witness and contradictions existing in the statement of the complainant are concerned, the same cannot be considered while deciding the present petition for regular bail. The contradictions, if any, can be considered by the trial Court at the time of the final decision of the case.

Keeping in view the fact that there are serious allegations against the petitioner, the petitioner is not entitled to bail at this stage.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

07.02.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No