

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

104+213

CRM-M-8218-2022 (O&M)
Date of decision: 08.12.2022

Manish @ Monti

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Abhimanyu Singh, Advocate
for the applicant-petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-45991-2022

Allowed as prayed for.

Documents are taken on record as Annexure P-6.

CRM-M-8218-2022 (O&M)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 13 dated 10.01.2020, registered under Sections 147, 148, 149, 323 and 302 of the IPC and Section 25 of the Arms Act, 1959 at Police Station Badshahpur, District Gurugram.

The first petition, bearing CRM-M-29474-2021, was dismissed as withdrawn on 26.10.2021.

Learned counsel for the petitioner, at the very outset, submits that co-accused Bhanwar and Rajesh Lakhmi have already been granted the

concession of regular bail by this Court, vide orders dated 26.09.2020 and 28.06.2021, passed in CRM-M-20697-2020 & CRM-M-18251-2021, respectively.

Brief facts of the case are that the present FIR was registered at the instance of complainant Anuj that his brother Rahul was running a placement office and on 10.01.2020, he along with his brother and one Prashant went to contact a company in Begumpur Khatola village, where they met co-accused Lakhmi, who was already known to complainant. Lakhmi threatened the complainant party that they should not start their business there and in the meantime, Lakhmi called 7/8 persons at the spot, who gathered there armed with bricks and stones and one person was having a sharp edged weapon like a knife. The said persons attacked at complainant's brother Rahul and also damaged their vehicle with bricks. The accused persons hit Rahul on the left side of his neck and Lakhmi hit complainant on his head with a brick and other accused also gave kick and fist blows to the companions of complainant. It is further stated in the FIR that the person, who inflicted injury on Rahul, was being called as 'Montu'. Thereafter, the accused persons ran away from the spot and Rahul was taken to a hospital, where he died. During investigation, the accused persons including petitioner were arrested.

Learned counsel for the petitioner further submits that now the statement of complainant Anuj, who is the main eye-witness, has been recorded as PW-5 and there are material discrepancies in his statement.

Learned counsel has referred to the statement of PW-5/complainant Anuj, which has been placed on record as Annexure P-6, to submit that though he has identified the petitioner in the Court as the main

person who has caused injury on the left side of the neck of victim Rahul but it is stated that he attacked his brother Rahul two/three times on the neck and also pelted stones and brick bats. Learned counsel has further referred to the post-mortem report to submit that in the post-mortem report, there is only one injury inflicted on the neck and there is no other injury as stated by PW-5/complainant on oath.

Learned counsel has then referred to statement of PW-5/complainant, wherein he has stated that his supplementary statement was also recorded by the police on the same day, in which he disclosed the names of accused Lakhmi, Monti @ Manish, Naveen, Mahesh and Bhanwar Singh @ Chini, however, in his cross-examination, this witness stated that no supplementary statement was recorded and even further stated that he got scribed the name of Montu in his complaint as some persons standing nearby were saying that Montu had inflicted injuries to his brother, therefore, it will be a matter of trial regarding the correct identity of the petitioner as his name is 'Manish @ Monti', whereas the accused has been named as 'Montu'.

Learned counsel for the petitioner further submits that since PW-5/Anuj is the main eye-witness, who has already been examined on 01.11.2022 and only official witnesses are left to be examined, there is no possibility for the petitioner to tamper with the prosecution evidence in case he is enlarged on regular bail as he is in judicial custody for the last 02 years, 02 months and 25 days and conclusion of the trial may take a long time.

Learned State counsel, on the basis of the affidavit of the Investigating Officer, has submitted that during investigation, the role of the

petitioner was found that he was having a weapon like a knife and has hit on the left side of the neck of victim Rahul. It is further submitted that the said weapon was also got recovered from the petitioner.

After hearing learned counsel for the parties, without commenting upon the merits of the case, considering the facts that the petitioner is in judicial custody for the last 02 years, 02 months and 25 days; co-accused of the petitioner have already been granted the concession of regular bail as noticed above and also in view of the fact that conclusion of trial is likely to take some time as out of total 19 prosecution witnesses, only 05 witnesses have been examined so far, 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/Illaq Magistrate, concerned.

08.12.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No