

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

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CRM-M-9949-2022 (O&M)
Date of Decision : 30.08.2022

Nitin @ Nikky Kabbadi

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jay Prakash Jangu, Advocate for the petitioner.

Mr. Satish Singla, AAG Haryana.

ALKA SARIN, J. (Oral)

This is the fourth petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.228 dated 30.05.2019 registered under Sections 148, 149, 323 and 302 of the Indian Penal Code, 1860 (IPC) at Police Station Rajendra Park, District Gurugram.

First petition by the petitioner being CRM-M-15814-2020 was dismissed as withdrawn on 08.07.2020. Second petition being CRM-M-32985-2020 preferred by the petitioner for grant of regular bail was dismissed by this Court vide a detailed order dated 30.10.2020 and third petition filed by the petitioner being CRM-M-22761-2021 was dismissed as withdrawn by this Court vide order dated 27.09.2021.

Learned counsel for the petitioner would contend that the co-accused in the present FIR have since been granted the concession of bail. It

is further the contention that witness Nos.4 and 5 have not supported the case of the prosecution.

The brief facts relevant to be noticed in the present petition are that on 23.05.2019 information was received in the Police Station from Police Control Room, Gurgaon regarding the admission of one Padam Singh in Shri Govind Hospital, Gurgaon due to injuries sustained by him in some physical altercation. The Investigating Officer reached the Hospital and collected the Medical Rukka along with MLR of the injured. However, it was opined that the injured was unfit to make a statement. On 24.05.2019 the parties informed HC Vinod that a compromise had been effected and DDR No.17 dated 25.05.2019 was recorded on the basis of the above said compromise. The statement as well as compromise has been annexed with the status report as Annexures R-1 and R-2. In the said compromise also it has been admitted by the present petitioner that they had a quarrel with the deceased Padam Singh. On 29.05.2019 the son of Padam Singh informed the Police that his father Padam Singh had succumbed to his injuries while undergoing treatment at Safdarjang Hospital, Delhi. Thereafter the wife of the deceased filed a complaint stating therein that on 22.05.2019 she was cooking a meal at around 8:30 PM whereas her husband Padam Singh was watching television at home. Her younger son Krishan, aged 14 years, was standing outside. On hearing some noise, she and her husband went outside the house on which they found that the present petitioner Nitin @ Nikky and one Mithun were holding lathis in their hands on which the complainant intervened and asked Nikky as to why he was assaulting her son. Nikky (the

present petitioner) signaled to his companions to beat the complainant and her husband on which they started beating them. Nikky (the present petitioner) inflicted a danda blow on the head of the husband of the complainant due to which he fell down. He was taken to hospital on 23.05.2019 from where he was shifted to Safdarjang Hospital on 28.05.2019 as his condition deteriorated. He succumbed to his injuries on 29.05.2019 at around 3:00/4:00 PM. In the present case the wife of the deceased, who was also an author of the FIR, had appeared as witness No.3 and has supported the case of the prosecution.

The contention of the learned counsel for the petitioner that similarly situated co-accused have since been granted bail cannot be accepted inasmuch as the injuries attributed to the co-accused were not serious in nature. In the order dated 20.05.2020 passed by this Court in CRM-M-733-2020 granting bail to co-accused Lavish Tyagi, it has been noticed that allegations have been levelled against Nikky (the present petitioner) and that Mithun and Lavish have not been named in the FIR. It has further come in the order that as per the eye witness, the accused Nikky (the present petitioner) is the one who caused the injury. The present petitioner therefore cannot get any benefit of the concession of bail extended to the co-accused.

Learned State counsel has pointed out that out of total 25 witnesses, 09 have been examined and every endeavour shall be made to expedite the trial. Learned counsel has further referred to the custody certificate to contend that there are 08 other FIRs against the petitioner.

In view of the above and without commenting on the merits of the case, I do not find this to be a fit case for grant of regular bail. The present petition is accordingly dismissed.

It is made clear that any observation made herein shall not be deemed to be an expression of an opinion on the merits of the case.

Dismissed.

August 30, 2022
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(ALKA SARIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No