

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

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CRM-M-11288-2022 (O&M)

Date of decision: 18.07.2022

SURAJ NAMDEV

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Rajiv Sharma, Advocate for
Mr. Rakesh Kumar Sharma, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

Mr. Amit Parashar, Advocate
for the complainant.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.433 dated 01.09.2021 under Sections 307, 323, 34 and 506 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') (Section 325 IPC added later on) registered at Police Station Palla, Faridabad, District Faridabad.

The present case was registered on the complaint of Rakesh Singh alias Lakhan Singh, who had alleged that on 26.8.2021 at about 11:45 p.m., he alongwith his friend Narender was going towards their house from the side of Ismailpur in the vehicle of Narender, which was being driven by Narender as soon as they reached in front of Dr. Aman's Clinic, a vehicle bearing regd. no. UP 62 AY 2222, which was being driven by Suraj came from the side of village Basantpur and stopped near their vehicle and they also stopped their vehicle.

Thereafter, Feroz Khan, Suraj and Ashu alighted from their vehicle and hot words were exchanged between him and Feroz Khan but the matter was settled by Asul Bhadana, Piyush Pandey and Narender . In the meantime, Suraj backed his vehicle in a very rash and negligent manner and drove the same over them in order to commit their murder. He and Narender narrowly escaped but Piyush Pandey and Asul Bhadana had sustained grievous injuries. On these allegations, FIR came into existence.

Learned counsel for the petitioner *inter alia* contends that the offence under Section 307 IPC has been attracted only on account of intent and the manner although the injury sustained *per se* was not dangerous to life and that the injured Asul had suffered a grievous injury on the leg. It is further submitted that the petitioner is in custody since 01.09.2021 and has undergone actual custody of more than 10 months. It is contended that custodial detention of the petitioner is not required for any further investigation and that the co-accused of the petitioner have already been granted concession of regular bail vide order dated 25.02.2022 in case titled as 'Dinesh @ Ashu Singh Rawat Vs State of Haryana' while pre-arrest bail has been granted to the co-accused-Feroz Khan in case titled as 'Feroz Khan Vs State of Haryana'.

Learned State counsel however contends that the petitioner is the main accused as he had hit the injured with the Innova car used in the incident and hence, his role is distinct and separate from the other said co-accused persons. He, however, could not controvert the fact that the petitioner is in custody since 01.09.2021 and that no evidence has been recorded even though the challan in the present case had been filed on 01.11.2021 and the charge had been framed on 05.02.2022.

Learned counsel for the complainant however contends that the petitioner has consciously hit the victim with the vehicle and as such the intent was evident. He points out that the injured Asul had suffered a grievous injury in the said incident.

I have heard learned counsel for the parties and have perused the material on record.

Without going into the merits of the case and taking into consideration the period of custody already undergone by the petitioner and that the recording of the evidence of the prosecution witnesses has not commenced yet so far even though the petitioner has been in custody for more than 10 months, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

July 18, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>