

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

214

**CRM-M-12576-2022
Date of decision: 30.03.2022**

MUKESH

....Petitioner

Versus

STATE OF HARYANA

...Respondent

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

Present : Mr. Gaurav Mohunta, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G. Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C. for seeking concession of regular bail in case FIR No. 179 dated 22.05.2021 under Sections 147, 148, 149, 323, 325,, 341, 302, 506 IPC registered at Police Station Kherki Daula, District Gurugram (Annexure P-1).

2. Learned counsel for the petitioner has contended that the FIR in the instant case has been registered at the instance of Pooja widow of Hargovind (who had succumbed as a result of cumulative effect of the injuries sustained by him). As per the allegation levelled in the FIR, the incident in question had occurred on 22.05.2021 when 10-15 persons are arrived in two vehicles and opened attack on the deceased. The allegation against the petitioner is that he raised a lalkara and thereafter, no other specific injury has been attributed to the petitioner.

3. Learned counsel for the petitioner further submits that the

eye-witness as well as the complainant have been examined and the testimony of the said witnesses have been placed on record as Annexure P-2 and P-3 respectively. Both the said witnesses, who are the witnesses to have identified the assailants in the CCTV footage captured, have denied the involvement of the petitioner in the act of causing injuries to deceased Hargovind. It is thus argued that in the absence of identification to establish that the petitioner was instrumental in causing any injury to the deceased, continued incarceration of the petitioner would not be warranted. He points out that the petitioner has been in custody since 23.05.2021. The trial in question is not likely to conclude soon in as much as out of 31 witnesses, only 04 witnesses have been examined and 27 witnesses remain to be examined.

4. Mr. Kanwar Sanjiv Kumar, Asstt. A.G. Haryana opposes the petition and submits that the assailants were captured in the CCTV images and that as the petitioner is involved in two other cases and as such he was identified by the Investigating Officer. He however, could not dispute the fact that the PW-3 Sandeep and PW-2 Pooja are the witnesses who have been sighted by the assailants on the basis of CCTV footage. Mere involvement of an accused in other cases cannot be ground for continued incarceration of an accused in perpetuity. Besides, the stage of the trial is also not a subject matter of the dispute.

5. Considering the circumstances referred to above and as also the stage of the case and the fact that the star prosecution witnesses have not supported the case of the prosecution, I deem it appropriate to enlarge the petitioner on bail.

6. Accordingly, the instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, Gurugram.

7. 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.

8. 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

MARCH 30, 2022
vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No