

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13551-2022

DATE OF DECISION: APRIL 5, 2022

KAILASH @ LUTTAS

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. A.S. SHERA, ADVOCATE FOR THE PETITIONER.
MR. BHUPENDER SINGH, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this fourth petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.409 dated 10.9.2019, under Section 148, 149, 302, 307 IPC and Section 25 Arms Act, Police Station Dabua, District Faridabad, who is in custody since his arrest on 12.9.2019.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Faridabad in the order dated 28.1.2022, are as under:-

“Brief facts of this case, which are relevant for the disposal of present bail application are that the present case was registered on 10.9.2019 on the basis of complaint moved by complainant Ravinder wherein he alleged that he works in Govt. Press. In the intervening night of 9/10.9.2019 at about 10.30 pm he was present at his house. One Rohit resident of his village came to call his younger brother Naresh. His brother Naresh told him that some dispute took place in Sabzi Mandi and he alongwith Rohit are going to Dabua Sabzi Mandi to reconcile the matter. When they reached at the office of

Banwari and Chhotu in Mandi, his father phoned Naresh and asked him to come house, then Naresh told him that he would come after sometime. Due to apprehension of quarrel, he also went to Dabua Mandi from the side of Janta Colony Jhuggi's gate at about 11.50 pm and he saw that his brother Naresh was lying in mud and Netrapal son of Fajita was assaulting his brother Naresh with iron rod. Luttas son of Dhiraj, Chhotu Mandi wala, Satish Garhwali, Daulat Pandit, Chhalia, Sunny Sardar and their other companions were also beating his brother by iron rod, danda, shocker's rod and other weapons. He raised alarm for help from some distance, then the accused persons fired at him from their country made pistol and fled away from the spot by air-firing. Thereafter he with the help of public brought his brother to Fortis Hospital NIT Faridabd for treatment. In this quarrel Deepak also sustained injuries. His brother was declared dead by the doctors. The accused persons in collusion with each other killed his bother and also fired at the complainant with the motive to kill."

Learned counsel for the petitioner has argued that as per the allegations made by complainant Ravinder, his brother Naresh suffered injuries at the hands of Netarpal son of Fazita and Banbari armed with iron rods and they were further accompanied by eight other accused persons including the petitioner. According to him, in the FIR, no specific role is attributed to the petitioner and the allegations qua him are vague. He has further drawn the attention of the Court to the deposition of complainant Ravinder (Annexure P-3) to contend that this material witness has clearly stated that the petitioner was not one of the accused persons who were present on the spot and had caused injuries to Naresh. He submits that

though the previous petition was dismissed on 11.11.2021, but with this material development during the trial proceedings, the petitioner is seeking the intervention of the Court again for grant of concession of regular bail. He has argued that still 20 prosecution witnesses remain to be examined, therefore, further custody of the petitioner may not be necessary. He prays for bail.

On the other hand, learned State counsel assisted by PSI Janak while opposing the aforesaid prayer does not dispute this fact that material witness Ravinder stands examined and according to the said witness, the petitioner was not present at the place of occurrence, but according to him the said witness has not been declared hostile and the complete evaluation of his testimony would be done by trial Court after entire prosecution evidence is adduced.

Considering the above background, the custody of the petitioner, and the fact that material witness has already been examined, further detention of the petitioner may not be necessary for any useful purpose, as the trial would take considerable time to conclude.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

April 5, 2022

Gulati

whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No

(MANOJ BAJAJ)
JUDGE