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

CRM-M No.14499 of 2022 (O&M)

Date of decision: 19.07.2022

Gaurav

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Deepanshu Matya, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

CRM-24892-2022

Heard.

Allowed as prayed for.

CRM-24893-2022

Heard.

Allowed as prayed for.

Document (Annexure P-6) is taken on record subject to all
just exceptions.

CRM-24894-2022

Heard.

Allowed as prayed for.

CRM-M-14499-2022 (O&M)

Prayer in this 2nd petition is for grant of regular bail to the
petitioner under Section 439 of the Code of Criminal Procedure (in

short 'Cr.P.C.') in FIR No.42 dated 11.01.2020, for offence punishable under Sections 148, 149, 323, 302, 506 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Shivaji Nagar, District Gurugram.

Counsel for the petitioner has submitted that the new ground for filing this 2nd petition is that 02 of the eye-witnesses namely Sarvan, who appeared as PW-6 and the complainant Prabhu Deva, who appeared as PW-8, have not supported the prosecution version.

Brief facts of the case are that the FIR was registered with the allegations that on 10.01.2020, the police received an information that a girl namely Rukmani was brought dead to the General Hospital, Gurugram and when the police reached there, the statement of the injured/complainant Prabhu Deva was recorded in which he has stated that one Dinesh has earlier given beatings to his brother Sarvan and threatened with bad consequences as he has enmity with them. On the date of occurrence, Dinesh along with his friend Rohit, Parveen, Rajesh, Ankit, Lala, Brij Mohan and Monu along with some other unknown persons, came to his house, armed with iron rods, pipes and dandas. They asked the complainant Prabhu Deva to send his brother out of the house, on which his sister Rukmani came out of the house and tried to persuade Dinesh and his companions by saying that Sarvan is not at home. On hearing this, Dinesh and his companions started giving beatings to the complainant and his sister. Rohit gave blow of iron pipe on the face of the sister of the complainant and she became unconscious and fell down. Thereafter, Dinesh and Rajesh hit the complainant with sticks. In the meantime, Sarvan also reached at the

spot and thereafter, the accused persons ran away from the spot. The complainant and his brother Sarvan took their sister Rukmani to the hospital where she was declared brought dead. As per the post-mortem report, the cause of death was head injury, which was ante mortem in nature. It is further submitted that the petitioner is in custody for the last 02 years, 06 months and 07 days and out of 24 PWs, only 08 PWs have been examined, so far.

Counsel for the petitioner has further submitted that both the eye-witnesses i.e. PW-6 and PW-8 have not supported the prosecution version. Counsel for the petitioner has referred to the statement of PW-6, where he has stated that he has seen the accused persons present in the Court and Gaurav and Parveen through video conferencing and none of them assaulted his sister Rukmani and Prabhu Deva. This witness was declared hostile and in the cross-examination by the Public Prosecutor, he even denied his statement Ex.P-14, having been made to the police. He was confronted with the statement with regard to the allegations and the manner in which the accused have caused injuries, however, he denied everything.

Counsel for the petitioner has then, referred to the statement of PW-8 Prabhu Deva, the complainant, who has also stated that there was no dispute of Dinesh with his brother and no fight took place and police never recorded his statement and even when he was confronted to the statement (Ex.P-18), by word to word, he denied having made any such statement. He was also confronted with the statement with regard to the allegations and the manner in which the accused have caused injuries, however, he also denied everything. This

witness further stated that he and his sister received injuries on account of falling on the ground.

Lastly, counsel for the petitioner has submitted that since all the private witnesses have been examined and they have not supported the prosecution version, only the official witnesses, remain to be examined and there is no possibility of tampering with the prosecution evidence.

Counsel for the State on the basis of the affidavit of the SHO, Police Station Shivaji Nagar, Gurugam, after verification of the facts given in the FIR, submits that as per the post-mortem report, the deceased died due to head injury, which was found ante mortem in nature and as per the FSL report, the blood stains on the worn clothes of the deceased were matching with the blood sample of the deceased. However, it is not disputed that out of 24 PWs, only 08 PWs have been examined and both the eye-witnesses have not supported the prosecution version. It is also not disputed that the petitioner is not involved in any other case and has no criminal antecedents.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 02 years, 06 months and 07 days; the petitioner is not involved in any other case; 02 of the eye-witnesses have not supported the prosecution case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

19.07.2022

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No