

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

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**CRM-M-14554-2022
Date of decision: 26.07.2022**

SANDEEP

....Petitioner

Versus

STATE OF HARYANA

...Respondent

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

Present : Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

Mr. V.K. Yadav, Advocate
for the complainant.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No. 272 dated 21.08.2021 registered under Sections 148/149/323/506/302/120-B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") at Police Station Sadar Narnaul, District Mahendergarh, Haryana.

2. Brief facts of the case are that the FIR was registered on the basis of statement made by complainant Virender Singh wherein he has stated that he is resident of village Bhushan Kalan and is a farmer by profession. He had constructed his house about 15 years ago after purchasing land at the Firni of the village due to which accused

Somdutt, Ravi, Pawan residents of village Bhushan Kalan and Himmat

resident of village Seka are inimical towards him. On 21.8.2021 at about 3.30 P.M. Sandeep (petitioner herein) son of Ashok made a telephone call to him inviting him to consume liquor. He refused the same. At about 5.30 P.M. he reached at Bhushan Kala-Mandhana Road and Somdutt, Ravi, Pawan, Himmat and Lila Ram armed with iron rods, pipes and sticks came in a Bolero vehicle and attacked him. When the passersby stopped for his rescue, the accused persons also threatened them with dire consequences. Somehow he made a telephone call to his son, who alongwith Ambulance reached at the spot and got him admitted at the Govt. Hospital, Narnaul. On the basis of this statement, offences punishable under sections 148, 149, 323, and 506 IPC were made out and matter was investigated. On 31.08.2021 injured complainant-Virender Singh died during his treatment at Batra Hospital, Delhi. On the opinion of doctor, Section 302 IPC was added in the FIR. Section 120B IPC was also added in the FIR.

3. Learned counsel appearing on behalf of the petitioner has argued that as per the allegations leveled in the FIR and investigation conducted by the prosecution, the only role attributed to the petitioner is to have summoned the deceased on the pretext of consuming alcohol and to have brought him at the spot where incident in question had taken place. He submits that as per the postmortem report, injuries were caused only to the legs by the other assailants and that the petitioner did not cause any injuries to the deceased. He, further, submits that it was in fact the petitioner who made the call to the son of the deceased from the mobile belonging to the deceased to reach at the place of occurrence. It is argued that in the absence of any active participation

and considering the disclosure statements of the co-accused as well as the petitioner, the only inference that can be drawn is that the petitioner had been in conspiracy with the accused at best for the purpose of causing injuries to the deceased and he was never a part of any conspiracy to eliminate deceased Varinder. It is further submitted that even though incident in question had taken place on 21.08.2021, the deceased finally succumbed on 31.08.2021. It is argued that as a matter of fact, the deceased had left Safdarjung Hospital against medical advice and as such, the real cause of the death is yet to be ascertained. Besides, he contends that even though charge under Section 302 IPC has been framed, however, it is yet to be conclusively ascertained whether it would be a case of Section 304 or Section 302 IPC. It is also argued that the petitioner has been in custody since 09.10.2021 and has already undergone an actual custody of 09 months and 17 days and he has not suffered any criminal antecedents. Besides, there is also no possibility of the petitioner being involved in any other criminal case. He further contends that there has been a material shift in nominating the accused when compared to the statement made by the deceased Varinder himself and that altogether new version of the incident or has now been culled out by the Investigating Agency upon culmination of the investigation despite deceased having specifically named the assailants.

4. Learned counsel appearing on behalf of the respective State assisted by the counsel representing the complainant contends that the petitioner was actively participating in the commission of the offence and that he was the one who gave information regarding the

whereabouts of the deceased. In fact he allured and brought the deceased to the place of occurrence so as to enable the other assailants to cause injuries to him and as such his role cannot be ignored or be stated as minor. There is however no dispute that the petitioner is not attributed any injury to deceased and that as per the disclosure so recorded, the object was to cause injuries to the deceased person. The receipt of injuries is also on the legs alone. The weapons used in the commission of offence have also been recovered at the disclosure of the petitioner. His antecedents as well as the actual custody is also not a subject matter of dispute. It is also not disputed that no witness has been examined in the case even though there are as many as 26 witnesses nominated by the prosecution.

5. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

6. Without examining the merits of the instant case and taking into consideration the absence of any injury attributed to the petitioner on the body of the deceased and the clean antecedents, the stage of the trial as well as the accompanying facts noticed above, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

7. 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, concerned.

8. 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.

9. 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.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 26, 2022
vishal sharma

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