

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

220

CRM-M-15107-2022

Date of Decision: 19.05.2022

Udham Singh @ Bansi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Tanmoy Gupta, Advocate,
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Jit Ram.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.192 dated 21.03.2019 at Police Station Camp Palwal, District Palwal, under Sections 302/341/34 IPC.
2. The FIR was lodged at the instance of Laxman, wherein it is alleged that at 10 am on 21.3.2019 Udham had come to their house and had taken the complainant's brother Subhash along with him for playing Holi. At about 4 pm, the complainant came to know that somebody had given blows with knife to Subhash and that he had been taken to hospital where he has died. Upon making enquiries, the complainant came to know that Kalu, Udham, Dinesh, Rupinder, Suhsil and Manoj had been playing Holi in the plot of Kalu, but had later quarreled on account of which Dinesh had sustained an injury on his foot. Subhash got Dinesh admitted in hospital.

- When Subhash and Manoj were proceeding to house of Dinesh for getting money for his treatment, then they were waylaid by Udham who was accompanied by 3-4 other persons. Udham is alleged to be carrying a 'knife' while others were carrying 'sticks' and 'rods' in their hands. Udham gave a blow with 'knife' on the chest of Subhash while one of the unknown persons gave 2-3 blows of 'knife' on the back of complainant's brother after taking the knife from his pocket. The others are also alleged to have caused injuries with 'rods' and 'sticks'.
3. Learned counsel for the petitioner has submitted that the FIR is based on hear-say evidence and it is not specifically mentioned as to from whom the complainant-Laxman received the information as regards murder of his brother. It has further been submitted that although as per the FIR, one Manoj was accompanying Subhash (deceased), when the occurrence took place, but for the reasons best known to the prosecution, said Manoj has not been cited as a witness. It has also been submitted that although the investigating agency claims that the weapon of offence i.e. knife has been recovered, but in the absence of any report of FSL regarding there being blood stains on the same, the recovery would not carry any evidentiary value so as to help the case of prosecution. It has further been submitted that the petitioner has been incarcerated for more than 3 years and that since trial is not making any headway, he deserves the concession of bail.
4. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and there are specific and categorical allegations against the petitioner to the effect that it is he, who

had stabbed the deceased, the case of prosecution cannot be said to be false. It has further been submitted that since the weapon of offence had also been recovered at the instance of the petitioner, his complicity is clearly evident and that the absence of blood stains or absence of report of FSL would be inconsequential. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 3 years & 2 months and that he is not involved in any other case. It has also been informed that as on date not even a single witness out of cited 19 PWs has been examined.

5. I have considered rival submissions addressed before this Court.
6. The absence of any eye-witness to the occurrence would certainly affect the case of the prosecution. In any case, without making any further expression as regards the merits of the case of the prosecution, but while noticing that the petitioner has been behind bars for a substantial period of more than 3 years and conclusion of trial is likely to consume time inasmuch as not even a single witness out of cited 19 PWs has been examined till date, the petitioner who otherwise has a clean record deserves the concession of bail. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

19.05.2022

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**(GURVINDER SINGH GILL)
JUDGE**

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