

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(111+204)

CRM-M-16978-2022 (O&M)-

Date of decision:- 23.12.2022

Vishal

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. G.S.Shahpuri, Advocate
for the applicant-petitioner.

Ms. Ankita Ahuja, AAG, Haryana
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

CRM-48056-2022

Application is allowed.

Leave is granted.

CRM-48060-2022

Application is allowed as prayed for.

Testimony of Pooja (PW-2) is taken on record as Annexure P-10.

Main case

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in case FIR No.118 dated 27.05.2020, registered for offences under Sections 148, 149,

302, 323, 354-D and 452 of the Indian Penal Code, 1860, at Police Station Chhachhrauli, District Yamuna Nagar, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Kajal, a 20 year old married lady, stating that when she went to 'Bara' in the village Phirni, Vishal (present petitioner), Vijay, Ravi and Rubi, who were already there, forcibly caught hold of her sister-in-law and started pulling her clothes. When she came out, her clothes were also torn. They managed to escape from their clutches and informed their family. When her family members confronted the accused, a large gathering of inhabitants of Balmiki Basti inflicted injuries on them with stones and bricks. She spotted Rubi, Ram Sharan, Mewa, Vishal, Vijay Kumar, Ravi, Budh Ram, Naresh Kumar, Maya Devi, Abhi, Saurab and Gaurav in the crowd. Stone thrown by Mewa and Vishal hit and Sunita, a neighbour, on her forehead, who started bleeding and fell unconscious. She was taken to a hospital, but succumbed to her injuries.

Learned senior counsel has argued that the alleged occurrence is a result of a sudden fight and there was neither any intention to cause death nor any knowledge that the stones allegedly thrown, are likely to cause death. Star argument raised by him is that offence under Section 302, IPC is not made out. He submits that the complainant, Kajal, and eye witness, Pooja, who is her sister-in-law, have been examined. Reliance has been placed by him upon order dated 23.02.2022, Annexure P-3, passed by this Court, whereby co-accused, Mewa Ram, has been released on regular bail. He submits that all other co-accused, who are named in the FIR, have been

enlarged on bail. Counsel submits that the petitioner, who is 22 years of age and is in confinement from 01.06.2020, deserves to be temporarily set free as he enjoys a clean past.

Per contra, learned State counsel, upon instructions from ASI, Kuldeep Singh, has opposed the petition and has urged that both the material witnesses have supported the case of the prosecution. It is her case that the petitioner has not only been named in the FIR, but specific role has been ascribed to him. She submits that along with co-accused, he has caused death of a young lady. She argues that human blood has been found on the stone as well as the clothes of the deceased. Still further, she submits that eleven out of nineteen prosecution witnesses have been examined and two witnesses have been given up.

Having considered the submissions made by counsel for the parties, but without adverting to the merits or demerits of the arguments addressed, this Court is prima facie of the view that the complicity of the petitioner in the offence would remain a subject matter of debate before the Trial Court. Noticing the custody of the petitioner, which by now is more than thirty months, the stage of the trial and the fact that the material prosecution witnesses have been examined, this Court is inclined to accept the prayer made in the petition.

Petition is allowed.

Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

23.12.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No