

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

**CRM-M No.20003 of 2021
Date of Decision: 22.08.2022**

Bharat Kumar

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Vinod Ghai, Senior Advocate with
Mr. Munish Behl, Advocate for the petitioner.

Mr. Apoorv Garg, DAG, Haryana
for respondent No.1-State.

Mr. Rajesh Bansal, Advocate
for respondent No.2-complainant.

MEENAKSHI I. MEHTA, J.

The petitioner herein has sought the relief of regular bail in the criminal case arising out of the FIR bearing No.197 dated 22.07.2020 registered at Police Station Parao, Ambala Cantt, District Ambala, under Section 302 IPC wherein the offence under Section 25 of the Arms Act, 1959 is stated to have been added later-on.

2. Bereft of unnecessary details, the allegations, as levelled by complainant Shiv Poojan in the subject FIR, are that his eldest son named Phool Chand was a Carpenter by profession and had been running a shop and he was having a dispute with the petitioner over the payment of some amount on account of the wood-work done by him in his (petitioner's) house. On 21.07.2020, at about 07.15/07.30 P.M, the petitioner came to his

son's shop in the Car bearing registration No.HR-03G-5391 and started quarrelling with him (his son) over the payment of the above-said amount and then, he brought a knife, as kept in his Car and gave its blow in the abdomen of his son which proved fatal for him.

3. It is worth-while to mention here that vide the order dated 25.05.2021 as passed by the Co-ordinate Bench in the present petition, the petitioner had been granted the relief of regular bail. However, vide the order dated 19.05.2022 passed in the **Criminal Appeal No.843 of 2022 {arising out of SLP (Crl.) No.6496 of 2021}** as preferred by respondent No.2-complainant, Hon'ble Supreme Court has set-aside the afore-said order dated 25.05.2021 with the following observations:-

“Though a variety of submissions are sought to be made by the learned counsel for the parties in support of their respective stand, we are not dilating on the same for the reason that after having examined the matter in its totality, we are of the view that the bail plea of the accused-respondent deserves consideration afresh by the High Court.

The fact of the matter remains that the charge-sheet has been filed for offence under Section 302 IPC and the allegations are of causing stabbed wounds to the deceased in his abdomen. In such a matter, mere submission on behalf of the appellant that there had not been a previous planning, by itself, could not have been decisive of the matter of grant of bail; and an overall view of the relevant facts and circumstances was required to be taken before final decision on the plea of bail.

It is also informed that the matter is now posted for prosecution evidence on 23.05.2022. While we would require the prosecution to proceed expeditiously and to produce the relevant witnesses before the Trial Court, at the same time, we also deem it appropriate that the bail application of the accused-respondent be restored for re-consideration by the High Court.

However, it is also noticed that the impugned order was passed way back on 25.05.2021 and as per the submissions made, the accused-respondent was released on bail on 26.05.2021. That being the position and in the totality of the circumstances, we do not consider it just and appropriate to require the accused-respondent to surrender to custody immediately. Rather, we deem it appropriate to provide that the accused-respondent shall be deemed to be on interim bail until the matter is decided finally by the High Court.

Accordingly and in view of the above, the impugned order dated 25.05.2021 is set aside; and Criminal Miscellaneous No.M-20003 of 2021 is restored for re-consideration of the High Court. The parties through their respective counsel shall stand at notice to appear before the High Court on 12.07.2022.

Until the matter is decided finally by the High Court, the accused-respondent shall be deemed to be on interim bail. It is also made clear that the pendency of the bail application before the High Court or any observations made in this order shall not be of any impediment in the Trial Court proceeding further with the matter; rather it would be expected of the Trial Court to proceed expeditiously.”

4. Reply has already been filed on behalf of the respondent-State, by way of the affidavit of Deputy Superintendent of Police, Ambala Cantt, District Ambala.

5. In compliance of the above-quoted order passed by the Apex Court, I have heard learned Senior counsel for the petitioner as well as learned State counsel (assisted by learned counsel for respondent No.2-complainant) in the instant petition and have also perused the file carefully.

6. Learned Senior counsel for the petitioner has contended that as per the version of the complainant himself as set-forth in the afore-said FIR, the petitioner suddenly got angry and brought a knife, as lying in his Car and caused injury to his son (victim/deceased) and it being so, the above-alleged act and conduct of the petitioner, at the most, attract the offence under Section 304 IPC and the same do not fall within the ambit of the offence punishable under Section 302 IPC and in these circumstances, the petitioner deserves the relief as prayed for in this petition. To buttress his contention, he has placed reliance upon the observations made by the Apex Court in **Dauvaram Nirmalkar Versus State of Chhattisgarh, Criminal Appeal No.1124 of 2022 {arising out of Special Leave Petition (Criminal) No.2481 of 2022}**.

7. Per contra, learned State counsel has pointed out that as mentioned in the recovery memo and shown in the sketch of the weapon of offence, i.e the knife, discovered in pursuance of the disclosure statement of the petitioner, it (knife) was having 20 cm long blade and 13 cm long handle and the width of its blade ranged from 3.5 cm to 4.5 cm and he has

argued that the very description of the measurements of the said knife itself speaks volumes of the fact that the petitioner had not committed the offence in a sudden fit of anger and rather, he had visited the shop of the deceased with intention to cause fatal injuries to him (deceased).

8. However, I do not find the afore-raised contention of learned Senior counsel for the petitioner to be tenable at all because mere version of the complainant, as recorded in the FIR, to the effect that the petitioner suddenly got enraged, does not suffice at all, at this stage, to come to the conclusion that the offence allegedly committed by him, falls within the four corners of Section 304 IPC, specially in the circumstances when he is alleged to have carried the above-said weapon of offence, i.e the knife, along-with him in his Car to the place of occurrence because in the normal course of events, no law abiding person would carry the knife having the afore-detailed measurements. Even otherwise, this contention can and shall be looked into and adjudicated upon by the trial Court at the relevant stage after appreciating and evaluating the evidence that would be led on the record during the course of the trial.

9. The observations, as made by Hon'ble the Supreme Court in **Dauvaram Nirmalkar's case (supra)**, are of no avail to the petitioner for seeking the relief of regular bail because the same have been made while deciding the appeal, as preferred by the appellant therein to lay challenge to his conviction under Section 302 IPC, in view of the evidence led on the record whereas in the present case, the trial proceedings are yet to be concluded.

10. Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence, as alleged to have been committed by the petitioner in the instant case, this Court is of the considered opinion that he does not deserve the relief of regular bail.

11. Resultantly, the petition in hand stands dismissed.

12. However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

13. A copy of this order be sent forthwith to the trial Court concerned, for necessary information.

August 22, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

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