

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23829-2022(O&M)

Date of Decision: 01.06.2022

Pawan Kundu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.141 dated 10.10.2020, registered under Sections 147, 148, 323, 506, 302, 201 IPC, 1860 with Police Station Bhupani, District Faridabad.

The brief facts of the case are that one Sudesh-complainant got recorded her statement to the effect that her younger son Anish had gone out with his friend Sandeep on the night intervening 08/09.10.2020 and when he reached at New Railway Line, Uttam Colony, 5/6 persons one of whom was Mukesh alias Komal assaulted her son. As per her version, Sandeep, the friend of her son Anish, informed her about the occurrence, pursuant to which she got registered the present FIR.

The learned counsel for the petitioner submits that the petitioner was not named in the FIR but has been named in the disclosure statement of his co-accused Mukesh alias Komal. He further contends that the three main witnesses to the occurrence namely Sudesh-complainant (not

eye-witness), Dharminder and Sandeep (eye-witness) have been examined as PW-1, PW-2 and PW-3. They have not supported the case of the prosecution and therefore, the petitioner deserves the concession of regular bail.

On the other hand, the learned State counsel vehemently opposes the bail application and contends that the petitioner does not deserve the concession of regular bail because he is one of the accused named by the main accused Mukesh alias Komal. He, however, does not dispute the factual position that the three material witnesses examined out of 25 witnesses stand examined, and they have not supported the prosecution case.

I have heard the rival contentions of both the parties.

Admittedly, the co-accused of the petitioner, namely, Mahesh alias Fajjar has been granted the concession of bail vide order dated 12.05.2022 passed by this Court (Annexure P-4). The petitioner is similarly situated.

The petitioner has been in custody since 07.03.2021. As many as 25 witnesses were cited by the prosecution out of which only 05 have been examined till date. The deposition of the three material witnesses has been placed on record as Annexures P-1, P-2 and P-3. None of these witnesses have supported the prosecution case. The Hon'ble Supreme Court in **“Dr. Gokarakonda Naga Saibaba Versus State of Maharashtra, 2016(2) RCR (Criminal) 675** and this Court in **“Devender Singh @ Devender Chhabra @ Tintu Versus State of Punjab, CRM-M-27957-2015 decided on 22.08.2016** has held that grant of bail can be considered, where witnesses stand examined.

Keeping in view the period of custody as also the fact that the

by keeping the petitioner incarcerated, moreso, when the trial is not likely to be concluded in the near future.

Thus, without adverting to the merits of the case lest it prejudices either side, I deem it appropriate to enlarge the petitioner on regular bail.

Accordingly, the present petition is allowed. The petitioner, namely, Pawan Kundu is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

Nothing expressed hereinabove would be construed to be an expression of any opinion on the merits of the case.

01.06.2022
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No