

CRM-M-26552-2022

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

**CRM-M-26552-2022.
Decided on: August 9, 2022.**

Satbir @ Fauji

.. Petitioner

VERSUS

State of Haryana

.. Respondent

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

**PRESENT Mr. Kartar Singh, Advocate,
for the petitioner.**

Mr.Kanwar Sanjiv Kumar, AAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, (hereinafter referred to as 'Cr.P.C.') for grant of regular bail to the petitioner in case FIR No.216 dated 05.10.2021, registered under Sections 147, 148, 149, 323, 341, 427 and 506 of the Indian Penal Code (hereinafter referred to as 'IPC')(Sections 302 and 307 IPC added later on), at Police Station Bhattu Kalan, District Fatehabad.

2 As per the status report filed by the police, brief facts of the present case for disposal of the present bail application are that on 05.10.2021, a telephonic call was received in Police Station Bhattu Kalan

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from Control Room, Fatehabad regarding admission of Sunil, Sumer sons of Rajender and Rajender son of Chhotu Ram, residents of Bhattu Kalan due to injuries sustained by them in a quarrel and further they were referred to General Hospital, Hisar. ASI Ravinder Kumar reached Jindal Hospital, Hisar and after seeking opinion of the concerned doctor, statement of Rajender was recorded. Injured Rajender alleged in his statement that he is a labourer and he has two sons and one daughter and all are married. On 05.10.2021 at about 10:00 A.M., he along with his sons were standing in front of the courtyard of their animals and his sons were ready to go for their work. In the meanwhile, one vehicle make Safari of black colour followed by one another vehicle came. 12-13 boys alighting from the said vehicles and were armed with lathis, danda, iron rod etc. Bittu son of Chiman Lal, Hudda @ Rajesh sons of Chiman Lal, Vikram son of Munna, residents of Bhattu Kalan were there in those 12-13 boys. All of them started giving beatings to them. Rajesh gave an iron rod blow on his left hand and then two other boys caught hold him and Rajesh and one another boy gave rod blows on his both legs and right hand. When he raised alarm and when both his sons namely Sumer and Sunil tried to rescue him, they were also given beatings. Thereafter, all the assailants also caused damage to the shedding of their goat and sheep with the Pick-up vehicle and tractor and also extended threats to get them out of the village. On this statement, a case under sections 147, 148, 149, 323, 341, 427, 506 IPC was registered. Matter was investigated. Place of occurrence was inspected. During investigation, opinion of doctor concerned regarding injuries of injured

Sunil Kumar was obtained and Section 307 IPC was added in this case. On 11.10.2021, injured Sunil Kumar died at Jindal Hospital due to the injuries sustained by him. Section 302 IPC was added. During investigation, co-accused Monu was arrested and he suffered his disclosure statement regarding the involvement of present petitioner as well as other accused persons along with him in the commission of offence in the present case. On 12.10.2021, inquest proceedings were conducted on the dead body of Sunil Kumar and after postmortem examination, dead body was handed over to the family members. Scheduled Caste Certificate of deceased was produced by the injured Sumer which was taken into police possession. Section 3(2)(V) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, was added. Further investigation was conducted by DSP Gitika Jakhar. Petitioner – accused Satbir @ Fauji was lodged in the jail in connection with some other FIR and is production warrants were issued and he has been in custody since 23.10.2021. After completion of investigation, final report under Section 173 Cr.P.C. against the present petitioner/accused along with co-accused was submitted in the court.

3 Learned counsel for the petitioner has submitted that the petitioner Satbir @ Fauji has been falsely implicated in the present case. He argued that the deceased Sunil Kumar died after six days of the occurrence. He further submitted that there were two injuries on the body of the deceased and that too are not on the vital parts as there were injuries on right leg and left elbow of the deceased. He further argued that the petitioner/accused is neither named in the FIR nor in the supplementary

statement of complainant Rajender Singh. He submitted that the present petitioner/accused has been made accused only on the basis of disclosure statement of co-accused Monu. He further submitted that three main accused are named in the FIR namely Rajpal @ Bittu, Rajesh @ Huda and Vikram and co-accused Ankit, Deepak and Rakesh have already been granted bail by the trial court. He further submitted that final report under section 173 CrPC has been filed and the present petitioner/accused is in custody since 23.10.2021. He submitted that completion of trial will take time, therefore, the petitioner/accused Satbir @ Fauji be granted concession of regular bail.

4 On the other hand, learned counsel appearing on behalf of the State has opposed the bail application. He argued that the petitioner/accused along with co-accused went on the spot to take the possession of the land which belongs to panchayat. He further contends that the petitioner had helped the other accused in collecting the weapons that were eventually used in the commission of the offence. Therefore, the petitioner-accused is not entitled to the concession of bail.

5 After taking into consideration the aforementioned facts and circumstances of the case, it is clear that the present FIR was registered on 05.10.2021 on the complaint of Rajender Singh initially under Sections 147, 148, 149, 323, 341, 427, 506 IPC. Later on, on 09.10.2021, Section 307 IPC was added on the basis of opinion by the doctor. Injured Sunil Kumar died on 11.10.2021 and hence, Section 302 IPC was added. It is not disputed that injuries are on the body of the deceased on right leg and left

elbow. It is also a matter of record that the present petitioner/accused is neither named in the FIR, nor in the supplementary statement. The name of the petitioner/accused came out in the disclosure statement of co-accused Monu. It is a moot point whether the petitioner/accused was involved in the commission of offence and has caused injuries either to the deceased or injured which will be decided at the finality of the trial. Co-accused Ankit has already been granted bail by this court. The petitioner/accused is in custody since 23.10.2021. Final report under Section 173 Cr.P.C. has been filed. The basic principle of criminal jurisprudence that bail is rule and jail is exception cannot be ignored at this stage. Hence, without commenting on the merits of the case, the present application for regular bail filed on behalf of petitioner/accused Satbir @ Fauji is hereby allowed. 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.

6 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.

7 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.

August 9, 2022.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No