

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

CRM-M No.29288 of 2022 (O&M)

Date of decision: 28.07.2022

Parvesh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Abhishek Sindhvani, Advocate
for the petitioner.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.385 dated 17.10.2019 registered under Sections 147, 148, 149, 342, 365, 302, 452, 120-B IPC at Police Station Dadri Sadar, District Charkhi Dadri.

Counsel for the petitioner has relied upon the order dated 08.02.2022 passed by this Court in CRM-M No.51541 of 2021, granting anticipatory bail to the co-accused of the petitioner, namely Ravi @ Sonu. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submits that FIR was registered on a complaint given by Manto Devi wife of Ram Singh, with the allegations that her sons Sanjay and Rajesh are married and are living separately and another son Pardeep is living with her. Sanjay and Rajesh were married with daughters of Mahabir, namely Anita and Manju. On 16.10.2019, when she and her husband were at home, then Om Parkash son of Hira Lal, Amarjeet son of Mahavir, Ajay son of Om Parkash and his son Rajesh and his wife Manju, Anita wife of Sanjay, Sonu son of Rajesh, Ravi son of Suresh and Suman wife of Suresh along with 9-10 other persons came to their house and gave beatings to both of them by breaking open the

door and thereafter, they went to house of Sanjay. At that time, Umed son of Amar Singh was also with them and he took her son Sanjay with them. In the morning, Rajesh made a phone call that Sanjay has died.

Learned counsel further submits that in the FIR, the petitioner was not named and even in the statement of husband of the complainant/father of deceased Sanjay, namely Ram Singh, recorded under Section 161 Cr.P.C., the petitioner was not named. It is also submitted that during the investigation, police arrested Amarjeet and Ajay and recorded their first disclosure statements on 20.10.2019, in which both of them have not named the petitioner as one of their accomplice, who had caused injuries to Sanjay. Two days thereafter, second disclosure statements of both these co-accused were recorded on 22.10.2019 separately, in which it is stated that when they reached Village Mehrana at house of their sister, they found that their brother-in-law Sanjay was in an inebriated condition and was abusing their sister Manju and brother-in-law Rajesh. When they tried to pacify Sanjay, he started abusing them. At that time, Sonu son of Rajesh, Ravi son of Suresh, Suman wife of Suresh, Balbir son of Harnam and Umesh son of Amar Singh also came there and gave beatings to Sanjay. It is further stated that after giving beatings, they along with their accomplice namely Bablu son of Brahmanand, Parvesh son of Krishan, Amit son of Kapur, Ajay son of Nagar, Rinku son of Suresh, Matri son of Ramesh and Ravi @ Sonu son of Dharambir took Sanjay with them to their house in Village Kheri Bura and gave severe beatings with fist and kick blows to Sanjay and tied him on the cot with rope, but he still kept abusing them. Thereafter, all of them ran away.

Learned counsel also submits that even in second disclosure statement, when the petitioner was named by aforesaid co-accused, no overt act is attributed to him, except that he was present as their accomplice. As per the disclosure statements, there are two incidents of giving beating to Sanjay. In both the statements, Amarjeet and Ajay have stated the names of the persons, who had caused injuries to Sanjay and not named the petitioner as a person that he caused injury to Sanjay.

Learned State counsel has filed the reply by way of affidavit of Deputy Superintendent of Police, Charkhi Dadri in the Court today, in which, after verifying facts of the case, it is stated that deceased sustained 08 injuries,

which were declared anti-mortem in nature, sufficient to cause death in normal course. It is further stated that Amarjeet and Ajay were arrested on 19.10.2019, where they had suffered disclosure statements on 20.10.2019 and stated that they along with Sonu son of Rajesh, Ravi son of Suresh, Suman wife of Suresh, Balbir son of Harnam, Umed son of Amar Singh and Om Parkash son of Hira Lal caused injuries to deceased Sanjay due to matrimonial dispute between him and their sister Anita, as Sanjay used to beat Anita and thrown her out of the house. It is also stated that the accused made second confessional statement on 22.10.2019 and named Bablu son of Brahmanand, Parvesh son of Krishan, Amit son of Kapur, Rinku son of Suresh, Matadi son of Ramesh, Ravi @ Sonu son of Dharambir and Ajay son of Nagar as their accomplices. It is further submitted that challan qua 05 accused persons has already been presented.

Learned counsel for the complainant has additionally argued that all the accused persons had given multiple injuries to the deceased, who died due to the same as per post-mortem report. It is further submitted that there was a motive of causing injuries, as Amarjeet and Ajay were having a grudge against Sanjay that he is misbehaving with their sister Anita.

After hearing learned counsel for the parties and considering the facts and circumstances of the case and also in view of the fact that the petitioner was neither named in the FIR nor in the statement recorded under Section 161 Cr.P.C. by father of deceased and not even in first disclosure statements of co-accused Amarjeet and Ajay and his name came for the first time in the second disclosure statements of these two co-accused and even in the second disclosure statements, they have not attributed any over act of causing injuries to deceased Sanjay, I deem it appropriate to grant anticipatory bail to the petitioner.

Accordingly, this petition is allowed and the petitioner is granted the concession of anticipatory bail subject to the conditions envisaged under Section 438 (2) Cr.P.C.”

Counsel for the petitioner has further submitted that on similar grounds, another co-accused of the petitioner namely Arvind @

Sonu @ Gandhi was also granted the concession of regular bail vide order dated 12.10.2021 passed in CRM-M No.4797 of 2021. It is also argued that even against the petitioner the allegations are that his name surfaced in the second disclosure statement of co-accused Amarjit, in which the name of the petitioner along with Ravir @ Sonu, surfaced. Lastly, it is argued that there is no direct allegation of any overt act attributed to the petitioner for causing any injury to the deceased Sanjay.

Counsel for the State has not disputed the factual position but opposed the prayer for bail on the ground that the allegations against all the accused are serious in nature.

Be whatsoever, considering the fact that no overt act is attributed to the petitioner and the co-accused of the petitioner have already been released on bail, this petition is allowed and the petitioner is directed to appear before the Investigating Officer within a period of 10 days from today, to join the investigation and he shall be released on interim bail on furnishing bail/surety bonds subject to the conditions envisaged under Section 438(2) Cr.P.C.

(ARVIND SINGH SANGWAN)
JUDGE

28.07.2022
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No