

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.37104 of 2021 (O&M)

Date of Decision: February 14, 2022

Mithun Sardar & another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Vikram Singh Punia, Advocate,
for the petitioners.

Mr.Bhupender Singh, DAG, Haryana.

MANOJ BAJAJ, J. (Oral)

CRM-3174-2022

Application is allowed. Documents are taken on record.

CRM-M-37104-2021

Petitioners have filed this petition under Section 439 Cr.P.C.
for grant of regular bail, pending trial in case FIR No.414 dated 08.12.2020,
under Sections 302 and 34 IPC, 1860, registered at Police Station, Rai,
District Sonapat, who are in custody since their arrest on 08.01.2021.

The above FIR was registered on the statement of complainant
Sampat Lal, wherein it was stated that he along with his son Gulab Chand,
Manoj Sardar (son-in-law), Mithun Sardar, Rama Sardar, Shambhu and 4-5
mother persons had come to village Palri, Haryana in the month of
September for livelihood. They all used to work as labour and all are living
in the farm of Phoolkawar alias Sunra at village Palra. On 09.11.2020, an

altercation took place between his son-in-law and Mithu, Rama and Shambu and they fought with Manoj (son-in-law of the complainant) and hit him with brick and gave him slaps and fist blows. He somehow saved himself. On 10.11.2020, he took Manoj to the hospital for treatment, from where he was referred to PGI Rohtak. On 11.11.2020, they took Manoj to AIIMS Hospital, Delhi for treatment where he succumbed to his injuries. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioners has argued that as per prosecution itself, victim died of head injury, suffered by him as a result of fall of brick from a roof top. In this regard, he has invited the attention of the court to the different versions given by complainant before different hospitals where the patient was taken for treatment. He further submits that the complainant, who is father-in-law of the victim (Manoj), mentioned this fact in the FIR also, but attempted to explain that as he was not in senses, therefore, this variation is contained in history of assault given before the hospital authorities. Learned counsel for the petitioners has argued that the accused and the victim were known to each other being labourer working together who had a dispute over expenses of food and the alleged occurrence took place on 09.11.2020, but injured was taken to hospital on 10.11.2020. He submits that though the investigation of the case is complete, but the trial is not making any headway as no prosecution witness has been examined so far. He prays for bail.

On the other hand, learned State counsel, who is assisted by ASI Subash, has opposed the prayer, and submitted that the petitioners along with their co-accused had given multiple brick blows on the head of the victim and caused his death. However, it is not disputed that the charges

were framed on 07.11.2021, but no prosecution witness has been examined so far. He further submits that the case is coming up for recording the prosecution evidence on 16.03.2022 before the trial court.

At this stage, learned counsel for the petitioners has argued that the post-mortem report suggests only one injury on the person of the victim, therefore, there is no question of hitting the victim by all the assailants. According to him, it is equally possible that the nature of death, which is being projected by the prosecution as homicidal, is later on proved as accidental.

After hearing the learned counsel for the parties, considering the above background and the custody of the petitioners, this court is of the opinion that the possibility of conclusion of trial in near future does not seem to be probable. Admittedly, the material witnesses are either the complainant or the police officials and at present there does not seem to be any possibility of their being won over, therefore, the further detention of the petitioners behind the bars would not serve any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioners be released on regular bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Sonapat.

February 14, 2022
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No