

CRM-M-34571-2022

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

**CRM-M-34571-2022.
Decided on: August 10, 2022.**

Amit

.. Petitioner

VERSUS

State of Haryana

.. Respondent

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

**PRESENT Mr. Rakesh Nehra, Sr. Advocate, with
Mr. Reetesh Kumar, Advocate,
Ms. Bindu Tanwar, Advocate,
Mr. Atul Ravish, Advocate,
Mr. Pankaj Kaushik, Advocate,
Mr. Sauhard 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, for grant of regular bail to the petitioner in case FIR No.272 dated 11.05.2021, registered under Sections 302, 341, 148, 149, 506 and 120-B of the Indian Penal Code, at Police Station Shivaji Colony, District Rohtak.

2. This case was registered on a complaint made by

complainant-Jitender alleging therein that there was a property dispute between him and Ramphal and his sons. However, said dispute was settled with the intervention of Panchayat. Despite that, the accused party constantly criminally intimidated and abused them and at one occasion they were kept on gun point and were apprehending danger to life, due to constant threats. On 11.05.2021, at about 5.00 P.M. his (complainant's) elder brother Rakesh was returning home from his job and reached near Karontha Baland Road near canal, where Ramphal, Kapil and Sahil sons of Ramphal and 10-12 other persons armed with dandas attacked at his brother Rakesh and fled from the spot. Till the time, people arrived at the spot, his brother Rakesh had died. On the basis of said complaint, instant case was registered.

3. Learned Senior counsel appearing on behalf of the petitioner contends that the petitioner was not named in the incident by Jitender - author of the FIR. He further submits that the FIR in question was registered at 1:00 P.M. On 11.05.2021 itself and thereafter, the statement of one Anil was recorded by the police who happens to be a cousin of the deceased Rakesh. The said witness has stated that he was present at the place when deceased Rakesh was apprehended and was ordered by the assailants to go away failing which they would also cause harm to him. He thus left the spot. He contends that the name of the petitioner came up for the first time in the said statement. However, after arrest of the petitioner, his disclosure statement was recorded and as per the said disclosure, the petitioner along with his co-accused Priyanshu were present at the Bus

Stand of village Karontha and had the information with respect to the movement of the deceased Rakesh. The phone call in question is alleged to have been made by co-accused Priyanshu with the aid of the mobile number of Kapil. He thus contends that the statement of Anil stands contradicted by the investigation itself since the petitioner was not found to be present at the place of occurrence and is now stated to be present at the Bus Stand of village Karontha. He further contends that no call details have been appended along with the chargesheet to substantiate any phone call having been made from the phone of Kapil to the other co-accused. He further submits that even the said case is based on the disclosure of the petitioner and there is no independent evidence recorded by the investigating agency to corroborate the said aspect considering that bus stand would always be surrounded by people and there would always be shops operating from the same. It is argued that no injury as per the concluded investigation is attributed to the petitioner and no recovery has been effected from him. He has vehemently submitted that in the initial version Ramphal (father of Kapil and Sahil) was named as an accused, however, in the statement of Anil, his name was dropped and he has already been granted the concession of regular bail vide order dated 23.05.2022 passed in CRM-M-10451-2022. It was contended that period of custody undergone by the petitioner i.e. 1 year and 3 months, is more than the period undergone by the said co-accused and that the investigation of the case is complete. The prosecution has cited as many as 30 witnesses and the charge has not yet been framed. The conclusion of the trial will take time. He further points out that the

petitioner does not have any criminal antecedents and is not involved in any other case.

4. Per contra, learned counsel appearing on behalf of the State contends that the petitioner had informed about the movements of the deceased Rakesh and it was based upon aforesaid information that other assailants actually executed their plan resulting in the death of Rakesh. He, however, could not controvert the fact that the petitioner is not attributed any injury to the deceased and no weapon was recovered on his disclosure. It is also not disputed that the petitioner does not have any criminal antecedents and that the co-accused has also been granted the concession of bail. The point of distinction between the case of the petitioner and of the co-accused is only to the extent that said co-accused was not present at the place of occurrence. He also could not controvert the fact that no charge has been framed as yet in the aforesaid case and that 30 witnesses have been cited by the prosecution.

5. Taking into consideration the submissions noticed above, the age of the petitioner (23 years); his clean antecedents, the attribution to the petitioner, the discrepancies pointed out by the learned Senior counsel for the petitioner, the stage of the trial and also the period of custody already undergone by the petitioner, the present petition is 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 10, 2022.	(VINOD S. BHARDWAJ)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No