

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

CRM-M-35050-2022 (O&M)

Date of decision: 07.09.2022

Suresh @ Fauji

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Lakshman Sharma, Advocate and
Mr. Mayank Sharma, Advocate for the petitioner.

Mr. Pawan Kumar Jhanda, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this petition for grant of regular bail in case FIR No. 63 dated 15.03.2020, registered under Sections 109, 147, 148, 149, 323, 325, 367, 342, 427, 506, 302 IPC, at Police Station Uklana, District Hisar.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that the allegation against the petitioner are that he along with other accused have forcefully lifted complainant-Anil, took him to the house of the petitioner and there inflicted injuries on the legs and feet of Anil @ Baba; that Sombir, owner of the barber shop where the alleged occurrence took place, and Anwar Ali, a worker in the said shop, while appearing before the trial Court as PW 1 and PW 2, have not

supported the prosecution version and turned hostile; that Amit Kumar, brother of the deceased, while appearing before the trial Court as PW-3, had not attributed any specific injury to the petitioner and the co-accused and rather, he is not an eye-witness to the alleged occurrence; that similarly PW-4 Darshan Singh, who is also not an eyewitness to the alleged occurrence, had not specifically attributed any injury to the petitioner and the co-accused.

Learned counsel further contends that there were total 07 injuries on the person of the deceased, which were on the non-vital parts of his body. Moreover, author of the FIR, namely, Anil @ Baba had expired after 05 days of the alleged occurrence and that too because of cardiac arrest. The petitioner has been in custody since 18.11.2020. Co-accused, namely, Virender, Anand @ Bundi, Surender @ Shinder, Sandeep @ Nanha, Sunil @ Chini, Jaivir @ Modi and Surender @ Kala, have already been granted regular bail by this Court, vide separate orders.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner, submits that the petitioner had actively participated in the crime and which had taken place at his house; that the petitioner put his licensed gun on the temporal region of the complainant and extended threat to eliminate him, his brother and other members of the family. However, he does not dispute the custody period of the petitioner and the fact that two eye-witnesses, namely, Sombir and Anwar Ali, while appearing before the trial Court as PW 1 and PW 2, have not supported the prosecution version. He submits that out of 38 prosecution witnesses, 10 have been examined.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 18.11.2020. Two eye-witnesses i.e. PW-1 Sombir and PW-2 Anwar Ali have not supported the prosecution version. Even PW-3 Amit Kumar, brother of the deceased, who is also not an eye-witness to the alleged occurrence, had not attributed any specific injury to the petitioner. All the seven injuries on the person of the deceased were on the non-vital parts and as per the medical record, the cause of death was cardiac arrest. Out of 38 prosecution witnesses, 10 witnesses have been examined till now. Some of the co-accused are on bail. Trial of the case would take time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

07.09.2022

Mangal Singh

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No