

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-36351-2022 (O & M)****Date of decision: 24.08.2022**

Sandeep Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Keshav Pratap Singh, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Ashit Malik, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in a case FIR No.507 dated 18.11.2021 under Sections 148, 149, 341, 323, 324, 325, 302 and 506 IPC and Section 25 of the Arms Act, 1959 registered with Police Station Matlauda, District Panipat.

2. The brief facts of the case are that the statement of Bir Singh son of Pawan was recorded to the effect that on 17.11.2021 at about 8.30/9.00 p.m. he and his cousin Sunil son of Shiv Kumar were working in the fields near the canal next to the drain. Sunil proceeded on his motorcycle from the fields to purchase some articles from the shop at some distance. Meanwhile, Deepak son of Badlu and Mohit son of Ajab Singh came on a tractor loaded with dirty water and started dumping the dirty water in the drain. When Sunil asked as to why they are dumping dirty water near their

fields, they struck Sunil with tractor which was being driven by Mohit. A

fight ensued and hearing the noise of the fight, Sudarshan son of Jai Kishan, Sheeshpal son of Mahendra and Sachin son of Pawan, who were present in the nearby fields, reached at the spot and intervened. In the meantime, Deepak called Vikas son of Ramesh, Sandeep son of Ramesh (the present petitioner), Ajay son of Omprakash (since granted bail vide order dated 16.08.2022 passed by this Court in CRM-M-31183-2022), Rohit son of Badlu (granted bail vide order dated 13.06.2022, Annexure P-10) and Vinod son of Narendra (granted bail vide order dated 12.07.2022, Annexure P-11) by making a phone call. All these persons reached the spot with knives, *gandasis* and *bindas*. Vikas gave 4/5 knife injuries to Sunil son of Shiv Kumar (deceased) and 4-5 knife blows to him (complainant). On the intervention of Sachin, Sudarshan, Sheeshpal and others, they too were caused injuries with knives, *gandasi* and *bindas*.

Due to the injury suffered, Sunil fell at the spot and the accused fled away from there. Sunil died on the way of the Hospital.

The learned counsel for the petitioner contends that there is a delay of 08 hours in lodging the FIR and it has been registered after due deliberation. So far as the present petitioner is concerned, he has not been attributed any injury on the deceased. During the course of the investigation, the supplementary statement of the complainant-Bir Singh was recorded and a perusal of the same would reveal that, in fact, the petitioner had come to the spot later when the deceased was about to be taken to the hospital in a vehicle. He also contends that as per the statements under Section 161 Cr.P.C. of Sachin, Vishal, Jitender, Sudarshan and Sheeshpal (Annexure P-5 to P-9), no specific injury has been attributed to the petitioner either on the person of the deceased or on the person of any of the injured. It is lastly contended that no recovery has been effected from

the petitioner. He, thus, contends that since the petitioner is in custody since 18.11.2021 and none of the 29 witnesses cited in the list of prosecution witnesses have been examined, he deserves the concession of regular bail.

The learned State counsel, on the other hand, contends that the petitioner and all the other accused had committed the offences in question and the petitioner was liable with the aid of Section 149 IPC. There was a video recording of the incident which shows that the incident did take place in the manner as suggested in the FIR. As many as 04 other persons from the complainant-party, namely, Sachin, Sudarshan, Bir Singh and Sheeshpal have received injuries, and therefore, the petitioner does not deserve the concession of regular bail. Undoubtedly, three co-accused of the petitioner, namely, Rohit, Vinod and Ajay @ Ajju have been granted the concession of regular bail by this Court but these three accused had not been seen in the CCTV footage, and therefore, their case was different from that of the petitioner, who is seen in the said footage.

The learned counsel for the complainant has vehemently opposed the bail application and submitted that the case of the petitioner is different from that of his co-accused, namely, Rohit, Vinod and Ajay @ Ajju as the petitioner is seen in the CCTV footage.

I have heard the learned counsel for both the parties at length.

As per the case of the prosecution, no specific injury has been attributed to the petitioner either on the person of the deceased or on the person of any of the injured. Therefore, it would be a matter of adjudication during trial as to whether the petitioner could be convicted with the aid of Section 149 IPC. Even though the petitioner is said to have been visible in the CCTV footage, yet no specific overt act or injury has been attributed to

namely, Rohit, Vinod and Ajay @ Ajju, who have been granted bail by this Court vide orders dated 13.06.2022 (Annexure P-10), 12.07.2022 (Annexure P-11) and 16.08.2022 respectively. Further, as many as 29 prosecution witnesses have been cited in the list of witnesses and none of them have been examined so far. Therefore, the trial of the case is not likely to be concluded in the near future.

In view of the aforementioned facts and also the fact that the petitioner is in custody since 18.11.2021 and the investigation already stands completed, the further incarceration of the petitioner is not required. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sandeep is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

(JASJIT SINGH BEDI)
JUDGE

August 24, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No