

218

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

CRM-M-40805-2021

Date of decision : 11.05.2022

Kuldeep**....Petitioner****Vs.****State of Haryana****...Respondent****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. V.K.Jindal, Sr. Advocate with
Mr. Amardeep Sheoran, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

Mr. H.S.Deol, Advocate for the complainant.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.72 dated 11.03.2021 under Sections 307, 323, 34 and 506 Indian Penal Code, 1860 (Sections 302 and 325 IPC added later on) registered at Police Station Dharuhera, District Rewari, Haryana, who is in custody since his arrest on 09.04.2021.

The allegations in the FIR, as noticed by the learned District and Sessions Judge, Rewari in the order dated 03.09.2021 are as under:

“Brief facts of the prosecution case are that on 11.3.2021, complainant-injured Anil moved a written complaint before the police in which he alleged that on 11.3.2021 at about 11-00 a.m. he received a phone call from his friend Sameer, resident of Garhi Maheshwari, who told him that a quarrel had taken place with his friend Jitender alias Gaurav, resident of village Alawalpur and they were to go to Alawalpur. Thereupon, he, Sachin son of Shri Ram and Rahul son of Rajesh, residents of village Khijuriwas left for

village Alawalpur on a motor-cycle bearing registration No.HR36AE-8203. When they reached village Alawalpur, they found Sameer and his 15-20 friends. Jitender was also standing there. They were told by Jitender that a quarrel had taken place between Surender Sarpanch and his family members and they had given beatings to them. The complainant further alleged that thereafter when they were returning back to their homes on the motor-cycle then a vehicle bearing no.HR36-9003 which was being driven by accused Surender Sarpanch followed their motor-cycle and hit his vehicle into the motor-cycle of the complainant with intention to kill them as a result of which they all fell down in the mustard fields along the road. Thereafter, accused Surender and two other boys alighted from the vehicle and started giving beatings to them with Lathi-Dandas and they also gave leg and fist blows to them. When they raised alarm, all the assailants fled away from the spot after giving threat to kill them in future. On the basis of the written complaint moved by the complainant, initially, a case under sections 307/325/323/506/34 IPC was registered against the accused persons. During the treatment, on 12.4.2021, Rahul succumbed to the injuries received by him in the occurrence and section 302 IPC was added and section 307 IPC was deleted in this case.”

Learned senior counsel for the petitioner has argued that as per allegations, complainant-Anil upon receiving information through his friend Sameer, that Jitender @ Gaurav resident of village Alawalpur had some fight in the village, and he along with Sachin and Rahul went to the said village, where they came to know that Jitender etc. were given beatings by Surender Sarpanch and his family members, but the complainant and others did not meet Surender Sarpanch or any other assailant, therefore, there was no occasion for Surender Sarpanch or others to chase the complainant and his friends. He submits that the petitioner is not named in the FIR, who has been falsely implicated only on the basis of disclosure statement made by Surender Sarpanch and according to him, the alleged occurrence of giving beatings to victim-Rahul appears to be doubtful, because when the injured was taken to hospital, it was stated that the

injured met with a road side accident on 11.03.2021. He submits that though the injuries were suffered by the victim on 11.03.2021, but the victim died on 12.04.2021, whereupon offence punishable under Section 302 IPC was also added. He has pointed out that though the charges were framed on 24.08.2021, but out of total 36 witnesses, no prosecution witness has been examined so far. He prays for bail.

On the other hand, learned State counsel assisted by PSI Pawan and learned counsel for the complainant while opposing the prayer have argued that the petitioner was accompanying the main accused-Surender Sarpanch and as they had gone in support of Jitender etc. they chased them and hit the motorcycle of the victim from behind and when he fell down, the accused persons caused other injuries to him. However, as per the medical record, the patient was brought to the hospital with the alleged history of road side accident. Learned State counsel on instructions further states that the case is fixed for 29.11.2021 for recording the prosecution evidence before the trial Court.

After hearing learned counsel for the parties, considering the above background, petitioner's custody and the fact that the trial is yet to commence, this Court is of the opinion that the conclusion of trial is likely to consume considerable time, therefore, further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody after his arrest on 09.04.2021. The material witnesses are either the close friends of victim or police officials and at present there does not appear to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the

merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned/Duty Magistrate.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

11.05.2022
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No