

CRM-M-37329 of 2022

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

CRM-M-37329 of 2022

Date of decision: 12.12.2022

Surender

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Vinod Ghai, Sr. Advocate, with
Ms. Mahima Dogra, Advocate, for the petitioner.
Ms. Gaganpreet Kaur, AAG, Haryana.
Mr. Mazlish Khan, Advocate, for the complainant.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.72 dated 11.03.2021 under Sections 307, 323, 34, 506 IPC registered at Police Station Dharuhera, District Rewari.

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

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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 petitioner-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, petitioner 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 (petitioner) and his family members, but the complainant and others did not meet petitioner or any other assailant, therefore, there was no occasion for the petitioner or others to chase the complainant and his friends. He further submits that the alleged occurrence of giving beatings to victim-Rahul appears to be doubtful, because when the injured was taken to

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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 39 witnesses only six have been examined and 33 witnesses are yet to be examined. He further submits that the trial is likely to take a considerable time as the prosecution witnesses have not appeared on various dates and the matter is being adjourned repeatedly for the same purpose. He further submits that even the charges have been framed under Sections 323, 325, 506, 302/34 IPC and Section 304 IPC. He submits that petitioner is in custody since 14.4.2021 and there is no recovery of any weapon from the petitioner. He further submits that even co-accused, namely, Kuldeep has been granted bail, although the main allegations are against the petitioner in the FIR, by a Co-ordinate Bench of this Court vide order dated 11.05.2022 (Annexure P-7) passed in CRM-M-40805 of 2021 – Kuldeep v. State of Haryana and one of the considerations while granting bail to the said co-accused was that the alleged occurrence giving beatings to victim-Rahul appears to be doubtful because when the injured was taken to the hospital it was stated that injured met with a road accident on 11.3.2021.

Per contra, learned State counsel and also learned counsel for the complainant while opposing the grant of bail have submitted that the petitioner is the main accused and he along with others chased and hit the motorcycle of the victim from behind and when he fell down, the accused persons caused injuries to him, however, as per medical record (Annexure P-3) the victim was brought to the hospital with the alleged history of

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roadside accident. Learned State counsel further submits that the case is now fixed on 24.01.2023 for prosecution evidence. She further submits that the petitioner was involved in another case having FIR No.152 dated 01.07.2004 under Sections 323/324/506/34 IPC registered at Police Station Dharuhera, Rewari, although he has been acquitted by the Court of learned ACJM on 11.10.2004.

After hearing learned counsel for the parties at length and considering the custody period of the petitioner, which is one year and eight months and the fact that the alleged occurrence of giving beatings to victim-Rahul appears to be doubtful and debatable and to be decided in the trial and the fact that the challan has already been presented and charges have been framed under Sections 302/304 IPC and the material witnesses are either close friends of the victim or police officials and at present there does not appear to be any possibility of being won over and the trial is likely to take a considerable time to conclude as the witnesses are not appearing before the Court, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

12.12.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No