

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

I) CRM-M-43854-2021 (O&M)

Bharat ... Petitioner

Versus

State of Haryana ... Respondent

II) CRM-M-49075-2021 (O&M)

Saurabh @ Banda ... Petitioner

Versus

State of Haryana ... Respondent

III) CRM-M-50720-2021 (O&M)

Aasif ... Petitioner

Versus

State of Haryana ... Respondent

Date of Decision:-18.7.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Udham Singh Yadav, Advocate and
Mr. Prince Sharma, Advocate,
for the petitioner in CRM-M-43854-2021.

Mr. Anirudh Singh Shera, Advocate,
for the petitioner in CRM-M-49075-2021.

Mr. R.S. Malik, Advocate,
for the petitioner in CRM-M-50720-2021.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by SI Surender.

GURVINDER SINGH GILL, J.

1. This order shall dispose of the above mentioned three petitions filed on behalf of petitioners Bharat, Saurabh @ Banda and Aasif seeking grant of regular bail in respect of a case registered vide FIR No.40 dated 15.2.2021, at Police Station Murthal, Sonipat, District Sonipat, under Sections 148, 149, 302, 323 and 120-B of Indian Penal Code.
2. The FIR was lodged at the instance of Monu, wherein it is alleged that his nephew Ajay (deceased), whose parents had already expired, used to work for him at his liquor vend. On 15.2.2021, Ajay accompanied by his friends Sagar, Amit, Lalit, Deepak, Hemant and Bharat had went to a flat in Omaxe City, BPL Flat, Sonipat of her aunt so as to celebrate birthday of his brother Lalit. However, some altercation took place between Ajay and Deepak in the said flat on account of which Deepak and Hemant telephonically called 10-12 of their companions and inflicted injuries to Ajay. Ajay being scared went to roof and hid himself but the assailants chased him and caused injuries to him and threw him down from the roof leading to his death. Lalit had informed the complainant telephonically about the same. When the complainant reached at the spot, he saw that 10-12 assailants were running away from the spot while carrying 'bittas' (wooden sticks) in their hands.

3. Learned counsel for the petitioners have submitted that the petitioners have falsely been implicated in the present case and that there is no evidence worth credence to connect them with the alleged occurrence. It has been submitted that the petitioners Saurabh @ Banda (in CRM-M-49075-2021) and Aasif (in CRM-M-50720-2021) are not even named in the FIR. It has further been submitted that it is infact a case of an accidental death, wherein the deceased himself fell down from the roof and that none of the petitioners had any role to play in his death. Learned counsel for the petitioners have further submitted that although the case of prosecution is that the deceased had been caused several injuries before he was thrown down from the roof, but a perusal of the post-mortem report would show that 12 out of the 13 injuries found on the person of the deceased were all on the right side of his body, which would show that he had fallen on his right side when he hit the ground and, as such, the version of prosecution that the deceased Ajay had been given beatings by the accused is virtually negated.
4. On the other hand, learned State counsel has submitted that the petitioner Bharat is specifically named in the FIR and that the name of petitioners Saurabh @ Banda and Aasif have cropped up in the disclosure statements of other co-accused and, as such, it is evident that all the accused had given beatings to the deceased and had thrown him down from the roof leading to his death. It has thus been submitted that none of the petitioners deserve the concession of bail.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that while in the FIR it is only the petitioner Bharat, who is named therein, and the name of petitioners Saurabh @ Banda and Aasif

figure subsequently in the disclosure statements of other co-accused. As far as the allegations of the accused having given beatings and having inflicted various injuries to the deceased are concerned, the post-mortem report though revealed that the deceased was having 13 injuries, but 12 out of the 13 injuries were found on his right side and all the injuries were in the nature of reddish contusions and reddish abrasions etc., which possibly had been sustained when the deceased hit the ground on his right side. Still further, this Court finds that during the disclosure statements made by several co-accused, it has specifically been stated that it is Nikhil and Deepak, who had pushed down the deceased Ajay from the roof, which ultimately led to his death. The petitioners have been behind bars since the last about 1 year and 4 months. None of the petitioner is stated to be involved in any other case previously. Conclusion of trial is likely to consume time inasmuch only 9 out of cited 23 PWs have been examined so far. In these circumstances, further detention of the petitioners will not serve any useful purpose. All the three petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. A photocopy of this order be placed on the file of each connected case.

18.7.2022

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No