

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

CRM-M-42330-2022 (O&M)
Date of Decision:- 20.9.2022

Surender Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja, Advocate for the petitioner.

Mr. Arun Beniwal, DAG, Haryana.

GURVINDER SINGH GILL, J.

1. This the third petition filed on behalf of the petitioner-Surender Kumar seeking grant of regular bail in a case registered against him vide FIR No. 403 dated 27.10.2018 under Sections 148, 149, 323, 302, 379, 506, 201, 212/120-B IPC at Police Station Kanina, District Mahendergarh (Haryana). While one of the previous petition was dismissed on merits on 24.2.2020, another was dismissed as withdrawn on 9.7.2019.
2. The FIR in question was lodged at the instance of Poonam wherein it has been alleged that they are having dispute in respect of joint land with Surender and Naresh and on account of which the aforesaid Surender, Naresh as well as sons of Surender namely Ajay, Vijay and Billu had fight several times regarding which both the parties had made complaints to the police. Even on 22.10.2018, Ajay etc. had fought with complainant's

husband regarding which a complaint had been made to the police. It is alleged that on 26.10.2018, when the complainant and her husband Vivek were working in their fields, Surender, Naresh, Ajay, Vijay, Billu and Munesh wife of Surender came there armed with 'rods', 'sticks' and 'axe' and upon seeing them, complainant's husband immediately told her to go home and to call his mother and other persons from the village. While the complainant started to leave from that place, she saw that Ajay gave a blow on the left leg of complainant's husband with an 'axe', Naresh gave a blow with 'rod' on the right leg of her husband and upon which her husband fell down and thereafter, the said persons gave beatings to her husband with 'rods', 'sticks', 'axe' and 'jelly' with an intention to kill him and also gave kicks and fists blows. Vijay is alleged to be carrying a 'jelly', which he was piercing in the body of complainant's husband. Upon seeing, the complainant started crying and raised alarm and upon which the said accused left from that place in their tractor while issuing threats to kill her as well. It is alleged that although the complainant's husband was taken immediately to Government Hospital, Kanina from where he was referred to Government Hospital, Rewari where he was declared dead.

3. Shri Vinod Ghai, learned Senior counsel has submitted that even as per the allegations levelled in the FIR, no specific injury is attributed to the petitioner and that it is the co-accused Ajay, Naresh and Vijay who are stated to have inflicted injuries to the deceased and that the petitioner has been roped in with the aid of Section 120-B IPC. It has further been submitted that co-accused Ajay has suffered a disclosure statement to the effect that it is only he who had inflicted injuries to the deceased with the help of a

'sariya' and that no other accused was present at the spot. The learned counsel has also referred to the statement of Parmod and has contended that even the said witness has not supported the prosecution version. The learned counsel has pointed out that out of the 20 injuries found on the person of the deceased, 6 were in the nature of punctured wounds and 3 were in the nature of lacerated wounds and that such a large number of injuries cannot be attributed to one person only and that as such, the participation of the remaining accused is clearly evident. A prayer has, thus, been made for grant of regular bail.

4. Opposing the petition, the learned State counsel has submitted that since the petitioner is specifically named in the FIR and apparently had a dispute with the deceased over land, his involvement in the murder of deceased is clearly apparent and even if it is presumed that he had not inflicted any specific injury, his role in conspiring and conniving with co-accused cannot be undermined. The learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last 3 years 10 months and 19 days and that as on date 4 out of the cited 23 prosecution witnesses have been examined. It has also been informed that the petitioner otherwise has a clean record and is not involved in any other case.
5. This Court has considered rival submissions addressed before this Court.
6. The FIR does show the presence of the petitioner at the spot though he is not attributed any specific injury. Without commenting any further on merits of the case but while noticing that the petitioner has been behind bars for a substantial period of more than 3 years and 10 months and otherwise has a

clean record, further detention of the petitioner will not serve any useful purpose, as conclusion of trial is likely to consume time.

7. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.9.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No