

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

**CRM-M-48731-2021
Date of decision: 19.04.2022**

Narender alias Narender Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sunil Chaudhary, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 1008 dated 19.12.2019, registered under Sections 302, 323, 506, 148, 149, 452, 120-B of the IPC at Police Station Sadar Bhiwani, District Bhiwani.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant Bijender, it is stated that on 19.12.2019, in the morning, Sachin along with other persons were going on their bullet motorcycle bearing registration number 4141 in front of the house of the complainant and the motorcycle was bursting crackers. The complainant requested Sachin not to do so in front of his house and on that account, they had a hot exchange of words. Later on, family members came at the spot and pacified the matter and Sachin and

complainant went inside their house, however, Sachin gave a criminal intimidation to complainant's side. After some time, Sachin, Uttam, Harish, Mukesh, petitioner Narender, Anita, Manoj and Amit came with sharp edged weapons and suddenly entered into the house of the complainant and all the accused persons raised their voice to kill the complainant side. In the meantime, Ajay came towards the gate side and accused persons attacked him with *lathi* and *danda* and gave beatings to him. Sachin was having a sharp edged weapon and gave a blow on the neck of Ajay and the impact was as much deep that after receiving the same, Ajay fell down and rest of the accused persons also gave him kick and fist blows. When the complainant along with others ran to rescue Ajay, all the accused persons ran away from the spot. It is further stated that other accused namely Sandeep, Desi, Ravinder and Seetu were standing there to help the accused persons.

Learned counsel for the petitioner further submits that the petitioner was not present even at the first instance when some altercation took place between the complainant and Sachin in the morning.

In response to a Court query posed on 12.01.2022, the short affidavit of Additional Superintendent of Police, Bhiwani has been filed in Court today, in which it is stated that during investigation, it was found that a scuffle took place between the complainant and Sachin and as per disclosure statement of accused Sachin, he called his friends Amit son of Satbir @ Santu, who brought the bullet motorcycle and thereafter, Sachin was driving the same in front of the house of complainant, where because of noise created by the said motorcycle, an altercation took place between the

complainant and Sachin.

Learned counsel has, thus, submitted that there was no motive on the part of the petitioner as he was not present when the first incident took place in the morning and in the second incident, he has only been named as no injury is attributed to him.

Learned counsel for the petitioner has referred to the statement of PW-4 Bijender, who has stated that he does not know about the facts of the case and though Sachin, Mukesh, Amit, Narender and Harish, who were present in Court through video conferencing, were identified by him but it was stated by PW-4 that they did not do anything wrong at any point of time. This witness was declared hostile and even in cross-examination by the public prosecutor, he denied to having made any complaint Ex. P1 to the police authorities. He also denied the allegations in the FIR, claiming the manner in which the accused persons caused injuries.

Learned counsel for the petitioner further submits that except aforesaid witness Bijender, there is no other eye-witness as the other eye-witnesses were regarding identification of the dead body or giving the motorcycle by Amit.

Learned State counsel, as per aforesaid affidavit as well as earlier affidavit dated 04.01.2022, could not dispute that there is no allegation of causing any specific injury against the petitioner. As per custody certificate filed today in Court, the petitioner is in judicial custody for the last 02 years, 02 months and 20 days and he is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances as well as the submissions made by learned counsel for the parties, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

19.04.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No