

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-49837-2021

Date of Decision:-25.02.2022

Shankar Bihari.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Rakesh Kumar Lathwal, Advocate &
Mr. Man Mohit Malik, Advocate for the Petitioner.

Mr. Parveen Kumar Aggarwal, Deputy Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.403 dated 25.05.2020 under Sections 148, 149, 323, 302 (Section 325 added later on) IPC registered with Police Station City-Sonipat, District Sonipat.

The facts of the case are that one Ronak son of Jaikaran Rana got registered the FIR in question with the allegations that on account of a dispute regarding a high speeding motor cycle of accused Chiki and Jagdeep and a subsequent quarrel between the accused and his father, Chiki son of Shamsher, Mintu son of Shamsher, Jagdeep son of Changa, Parveen, Mita, Sanni, Nikka Nambardar, Sanjay, Rajbala, Mintu, Vakil, Pankaj, Rakesh and the present petitioner alongwith their associates attacked his father Jaikaran. On hearing the noise his grandmother Santosh and certain other persons came to the spot. Chiki gave stick blows on the head of Santosh, his grandmother, on which she fell down and subsequently passed away.

Counsel for the petitioner has contended that it was a sudden

occurrence on account of a speeding motor cycle leading to an altercation between both the parties and as such there was no premeditation and no prior enmity. He further contends that the deceased received a head injury at the hands of Chiki, the main accused and no specific role whatsoever has been attributed to the petitioner. He contends that Jaikaran the father of the complainant has received injuries at the hands of Mintu, Chiki, Nika Nambardar, Jagdeep and unknown persons and once again no injury has been attributed to the petitioner qua the injured Jaikaran. He has referred to the MLR of Santosh deceased to submit that Santosh had received only one injury attributed to Chiki. So far as three injuries in the post mortem are concerned, two of the same appear to be simple in nature on the chest and right wrist of the deceased. He thus contends that being a sudden occurrence and no injury having been specifically attributed to the petitioner it would be a point of consideration during trial as to whether the provisions of Sections 148 IPC and 149 IPC are attracted to the present case.

On the other hand, the learned Counsel for the State has argued that all the accused persons came together and assaulted the deceased and the injured Jaikaran who has received grievous injuries and, therefore, the petitioner is not entitled to the grant of regular bail.

I have heard learned Counsel for both the sides at a considerable length and have gone through the entire record.

A perusal of the FIR would reveal that the dispute is between the neighbours. It is the case of the prosecution that the family members of the complainant tried to make Chiki son of Shamsher and Jagdeep son of Changa understand not to drive fast. Pursuant thereto the accused persons assaulted the complainant and his family members causing injuries to Jaikaran and death of Santosh.

Apparently, so far as the petitioner is concerned, he has not been attributed any injury on the deceased who appears to have suffered one fatal injury at the hands of Chiki alone. So far as injured Jaikaran is concerned, as per the FIR five persons are said to have assaulted him and the petitioner is not one of the five. The report under Section 173 Cr.PC reveals that 34 PWs have been cited as witnesses out of whom 09 have been examined. Admittedly, the petitioner is in custody since 09.06.2022.

In view of the fact that the petitioner is in custody since 09.06.2020 and as many as 24 witnesses remains to be examined, the further incarceration is not warranted.

Therefore, without commenting upon the merits of the case, the petition is allowed and the petitioner **Shankar Bihari** son of Shri Chunchun is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, Sonipat.

It is further made clear that if petitioner indulges in similar offence for which he is currently charged, the State would be at liberty to move an application for cancellation of bail.

Nothing observed herein shall be taken as an expression of opinion on the merits of the case.

(JASJIT SINGH BEDI)
JUDGE

February 25, 2022

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>