

102+209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50273-2021 (O&M)
Date of Decision: 01.12.2022

Tarsem

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Nikhil Ghai, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

Mr. Raman Chawla, Advocate
for the complainant.

...

Manoj Bajaj, J. (Oral)

CRM-35804-2022

Application is allowed, as prayed for.

CRM-35806-2022

Application is allowed, subject to all just exceptions.

Annexures P-13 to P-16 are taken on record.

CRM-M-50273-2021 (O&M)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.322 dated 12.10.2020 registered under Sections 147, 149, 323, 427 and 506 IPC, 1860 (Section 302 IPC added later on) at Police Station Uchana, District Jind. The petitioner is in custody since his arrest on 08.11.2020.

The allegations contained in the FIR as noticed by the Addl.

Sessions Judge, Jind in the order dated 02.07.2021, are as under:

“The allegations against the applicant-accused are that on 11.10.2020 at about 9.30 PM in the area of village Kakrod, within the jurisdiction of Police Station Uchana, he along with other co-accused duly armed with deadly weapons i.e. rod etc. formed an unlawful assembly and in prosecution of common object of such unlawful assembly voluntarily caused hurt to Sanjay and Smt. Bimla Devi and also caused injury to deceased Mohan Lal due to which he expired on 19.10.2020. They also committed mischief by causing damage to the Motorcycle, which was parked in the house of complainant. Further, they have also criminally intimidated the complainant party by threatening them to kill.”

Learned counsel for the petitioner has argued that the real sisters of petitioner are married to two brothers, namely, Birender and Sanjay, both sons of Mohan Lal and according to prosecution, as a result of matrimonial dispute, the alleged occurrence took place, whereby eight accused persons assaulted the family of Mohan Lal, wherein he died. He submits that the alleged occurrence took place on 11.10.2020 and victim died of a solitary head injury on 19.10.2020. He has drawn the attention of the Court to the orders passed by this Court, whereby the other co-accused have been released on regular bail. According to him, the trial is not going to conclude in the near future, therefore, he prays for regular bail.

The prayer is opposed by learned State counsel, assisted by ASI Anil Kumar and Mr. Raman Chawla, learned counsel for the complainant, who have argued that the fatal blow to the deceased Mohan Lal was given by the petitioner (Tarsem), therefore, his case is distinguishable from the other co-accused released on regular bail. Learned State counsel argued that the eye-witnesses are yet to be examined, therefore, the petitioner does not deserve the concession of regular bail.

At this stage, Mr. Nikhil Ghai, learned counsel for the petitioner has drawn the attention of the Court to the orders dated

non-bailable warrants, the material witnesses are not appearing before the trial Court for recording their deposition.

Learned State counsel and the counsel for the complainant are unable to refute the said position.

After hearing the learned counsel for the parties and considering the above background, particularly the custodial period of the petitioner and the fact that his co-accused has been released on bail, this Court is of the opinion that his further detention behind the bars may not be necessary for any useful purpose, as the conclusion of the trial would consume considerable time. Apart from it, the material witnesses are either close relatives of the victim or police officials and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

01.12.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No