

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

CRM-M-52391-2021 (O&M)
Date of Decision:- 15.2.2022

Vansh Petitioner
Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Anshul Mangla, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Jasmer.

GURVINDER SINGH GILL, J. (Oral)

CRM-5422-2022

In view of the reasons mentioned in the application, the same is allowed as prayed for and Annexure P-13 and P-14 are taken on record subject to all exceptions.

CRM-M-52391-2021 (O&M)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No. 358, dated 8.3.2020, Police Station City Jagadhri, District Yamunanagar, under Sections 148, 149, 212, 302, 323, 325, 452, 506 IPC (Sections 212 and 302 IPC added later on).
2. The FIR was lodged at the instance of Amina Khatoon wherein it is alleged that she along with her husband Imtiyaj (deceased) had been running a food joint (*Dhaba*) situated at Shanti Colony, which they

normally used to close at about 9/9.30 pm. It is alleged that on 5.3.2020, when she along with her husband Imtiyaj was present at their *Dhaba*, then at about 8 pm. Gourav came there and took a round their *Dhaba* on motorcycle and went away while having a look at the *Dhaba*. After some time, a Creta car and 2-3 motorcycles stopped near their Dhaba. Johny Pehlwan, Goru, Babu, Ankit @ Lalu, Ankit, Dinesh, Amit, Dhanna, Sahil Pandit and brother-in-law of Amit (name not known) alighted from the said vehicles and they were carrying iron rods and sticks in their hands and were also accompanied by 5/6 unknown masked persons. It is alleged that Johny Pehlwan raised a *lalkara* exhorting his companions to teach Imtiyaj a lesson and upon which all the accused started inflicting injuries to her husband. Although her husband tried to rescue himself but to no avail. Babu and Dhanna gave rod blows on the legs of her husband on account of which he fell down. Babu thereafter gave another blow on the left leg of her husband while Dhanna gave blow on his right leg and the rest of the persons also gave blows on head, stomach, chest of complainant's husband and also damaged various articles lying at the *Dhaba*. It is further alleged that Johny, Dhanna, Gaurav and others took away a sum of Rs.5000/- from the pocket of the complainant's husband and also took away another amount of Rs.30/35,000/- lying in the locker. It is further alleged that although complainant's husband was taken to a local hospital from where he was referred to Trauma Centre, Yamunanagar and from where he was

further referred to PGI, Chandigarh, but he ultimately expired on 13.3.2020.

3. Learned counsel for the petitioner has submitted that he is nowhere named in the FIR and came to be nominated on the basis of statements allegedly made by co-accused Ankit and Sahil. It has further been submitted that in any case the complainant-Amina Khatoon i.e. wife of the deceased as well as her son who is also an eye witness have been examined by the trial Court, but both of them have been declared as hostile.
4. The aforesaid position is not disputed by learned State counsel who has informed that the petitioner otherwise has been behind bars since the last more than 1 ½ years and as on date 2 out of the cited 33 PWs have been examined. It has also been informed that the petitioner happens to be involved in two other cases.
5. I have considered rival submissions addressed before this Court.
6. It is not disputed that the petitioner has been nominated on the basis of disclosure statement of co-accused, the admissibility or veracity of which would be debatable. In any case, the complainant as well as another eye witness namely Arman have both been examined, but they have not supported the case of prosecution and have been declared as hostile. The petitioner has been behind bars for a substantial period of 1 ½ years and conclusion of trial is likely to consume time inasmuch as only 2 out of the cited 33 PWs have been examined. In these circumstances, further detention of the petitioner is not justified. The petition, as such, is accepted and the petitioner is

ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

15.2.2022

Mohan

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No