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

CRM-M-51295-2021

Date of decision : 25.02.2022

Birpal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. V.B. Godara, Advocate for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.143 dated 29.04.2019 registered under Sections 147, 148, 149, 302, 323, 427, 452 of the Indian Penal Code, 1860 at Police Station Bhuna, District Fatehabad, Haryana.

Learned counsel for the petitioner has submitted that in the present case, as per the FIR, no specific injury has been attributed to the present petitioner. The person who is stated to have given a fatal blow with *gandasi* is Gaurav @ Gora. It is further submitted that Angrej, who is similarly placed as the present petitioner, has already been granted regular bail by the Coordinate Bench of this Court vide order dated 25.11.2021 passed in CRM-M-17876-2021. It is argued that the petitioner has been in

custody since 21.06.2019 and there are 31 witnesses, out of which, none have been examined as yet and thus, the conclusion of the trial is likely to take time moreso, in view of the present COVID-19 pandemic situation.

Notice of motion.

On advance notice, Mr. Munish Sharma, AAG, Haryana, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition for grant of regular bail to the petitioner and has submitted that although, no specific injury has been attributed to the petitioner but there are two incidents mentioned in the FIR and in both the incidents, the petitioner has been named and in the said incident, one person had died. It is further contended that the petitioner is involved in one more FIR i.e. FIR No.320 dated 04.07.2015 registered under Sections 323, 341, 506 and 34 of the Indian Penal Code, 1860.

Learned counsel for the petitioner, in rebuttal to the said arguments, has submitted that in the said case, the petitioner has also been granted the concession of bail and has further relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent

cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard the learned counsel for the parties and has perused the paper book.

It is not in dispute that as per the prosecution case, no specific injury has been attributed to the present petitioner. The injury, which has caused the death of the deceased has been attributed to Gaurav @ Gora with *gandasi*. The co-accused of the petitioner namely Angrej has already been granted the benefit of regular bail by the Coordinate Bench of this Court vide order dated 25.11.2021 passed in CRM-M-17876-2021 and the case of the present petitioner is on the same footing as that of Angrej. The said Angrej was granted bail after he had been in custody for about 1 year and 9 months whereas petitioner has been in custody since 21.06.2019 (2 years and 8 months). There are 31 witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time moreso in view of the COVID-19 pandemic situation.

Keeping in view the abovesaid facts and circumstances and also in view of law laid down in ***Maulana Mohd. Amir Rashadi's*** case (Supra), the present petition for regular bail is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would

be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

25.02.2022

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**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No