

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

(104 +215)

CRM-M-52957 of 2021 (O&M)

Date of decision : 14.03.2022

Om Parkash and others

.....Petitioners

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Kunal Dawar, Advocate, for the petitioners.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

CRM No.9459 of 2022

The instant application has been filed for placing on record the statements of witnesses as Annexure P-10.

Application is allowed as prayed for.

The statements of witnesses viz. PW-1 to PW-5, are taken on record as Annexure P-10.

CRM-M-52957 of 2021

The prayer in the instant petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioners in case FIR No.88 dated 09.09.2021 registered under Sections 323, 506, 34 IPC, 1860 (Section 302 IPC added later on) at Police Station Bhupani, District Faridabad, Haryana. (Annexure P-1).

Learned counsel for the petitioners *inter alia* contends that as per FIR, the deceased was allegedly attacked by the certain unknown persons on the night of 06.09.2021. It is stated that Anil one of the friends of his brother

had met him at B. K. Hospital, Faridabad, and informed him that some unknown persons had given beatings with rods and also with the use of sticks to his brother. Accordingly, FIR had been registered against unknown persons. He further makes a reference to MLR (Annexure P-2) to contend that as per the same, there were no marks of any external injury which would render the prosecution version belied. In case, rods and sticks had been used to open attack on the deceased, there would have been marks of external injuries on the body of the deceased. It is further pointed out that the petitioners were apprehended on the basis of statements of Atal Bihari Chaurasia, Pramod Kumar and one Anil Kumar Mehta. He further referred to the testimony of the said witnesses recorded during the proceedings of the case wherein the aforesaid witnesses have stated that the petitioners were not the people alleged to have caused injuries. Further, there is no recovery effected at the instance of the petitioners except for an Ecco Van.

Learned State counsel submits that the identification of the petitioners was done on the basis of CCTV image. However, he could not controvert the fact that witnesses who had allegedly identified the accused on the basis of said CCTV footage have not supported the prosecution version in Court. It is also not controverted that the petitioners are in custody since 14.09.2021.

Without commenting on the merits of the case and taking into account that the prosecution witnesses who are claimed as eye-witnesses to the incident have not supported the prosecution case at the stage of

testimony before the trial Court and as such identity of the accused is suspect and taking into account the period of custody undergone by the petitioners, I deem it fit and appropriate to allow the instant petition.

The petitioners are ordered to be released on regular bail on their furnishing personal bonds/surety bonds to the satisfaction of the Trial Court.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

The instant petition is accordingly disposed of.

14.03.2022

anil

(VINOD S. BHARDWAJ)

JUDGE

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