

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

CRM-M-51215-2022

Date of Decision:-11.11.2022

Arun.

.....**Petitioner.**

Versus

State of Haryana.

.....**Respondent.**

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

Present:- Mr. Sandeep Lather, Advocate for the Petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this second petition under section 439 Cr.PC is for the grant of regular bail in case FIR No.138 dated 13.03.2020 under Sections 148, 149, 307, 323, 324, 341 IPC (Section 302 and 120-B IPC added later on) registered at Police Station Gohana City, District Sonapat.

The present FIR came to be registered at the instance of Sumit son of Jaswant who stated that they were two brothers and one sister. His mother was alive though his father Jaswant had passed away. On 12.03.2020 a verbal fight had taken place between him and Sandeep son of Guglu. At night while he was coming back from his fields, the family of Sandeep was awake due to a marriage in the family. Seeing him (complainant) in the street, Sandeep raised a *lalkara* to kill him. Pursuant thereto Sandeep went home and came back with an Axe (*Farsa*). His father

also came to the spot with an Axe (*Kulhari*) and were accompanied by three/four men and three/four women all of whom were armed with weapons. They attacked him with an intention to kill him. Sandeep gave a *Farsa* blow on his neck which cut his cheek and chin on the right side. All the other accused attacked him with a knife, axe, stick and pricker (*sua*). Considering him to be dead they ran away from the spot.

The aforementioned statement was scribed by Amit son of Ram Bhaj and signed by the complainant. Subsequent thereto the complainant Sumit died on account of injuries and his mother Muni Devi made an application to the SHO, P.S. City Gohana naming a number of other persons as having accompanied the main accused Sandeep at the time of occurrence. She states that she was an eye witness to the same and had seen the accused causing injuries to her deceased son.

The Counsel of the petitioner contends that the petitioner is not named in the FIR but in the complaint (Annexure P-2) moved by Muni Devi mother of the deceased. He contends that Ankit has been granted bail by this Court vide order dated 08.10.2020 (Annexure P-3) passed in CRM-M-31116-2020(O&M), Ritik and Rohit have been granted the concession of bail by Additional Sessions Judge, Sonapat vide order dated 15.10.2020 (Annexure P-4), Narender @ Tinka, Amit @ Bhola and Baljit @ Ashi have been granted the concession of bail by this Court vide order dated 04.04.2020 (Annexure P-5) passed in CRM-36573-2020(O&M) and Ram Mehar has been granted the concession of bail by Additional Sessions Judge, Sonapat vide order dated 06.05.2020 (Annexure P-7). He contends that the case of the petitioner is similar to that of Amit @ Bhola and Ram Mehar in as much as from both the said accused *Dandas/ Lathis* have been

recovered just like the petitioner and they have been granted the concession of regular bail. He contends that the petitioner is in custody since 23.03.2020 and only 03 out of 28 prosecution witnesses have been examined. He otherwise has clean antecedents with no other case registered against him. As the trial was not likely to be concluded any time soon, the further incarceration of the petitioner was not required, more so when similarly situated co-accused have been granted the concession of bail.

The Counsel for the State on the other hand contends that all the accused were part of an unlawful assembly. Two of the accused namely Jai Bhagwan, the father of Sandeep (main accused) and Sushil have not been granted the concession of bail. He however, admits the fact that the other co-accused of the petitioner have been granted the concession of bail as also the stage of trial and that the case of the petitioner is similar to that of Amit @ Bhola and Ram Mehar.

I have heard counsel for both the parties at length and examined the record.

Admittedly, as many as 07 co-accused have been released on regular bail by either this Court or the Trial Court. The main accused Sandeep has since passed away. The case of the petitioner is similar to that of Amit @ Bhola and Ram Mehar. Only 03 out of 28 cited prosecution witnesses have been examined and, therefore, the trial is not likely to be concluded any time soon. Even otherwise, the petitioner has clean antecedents with no other case registered against him. Therefore, at this stage, the further incarceration of the petitioner is not required.

Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Arun** son of Sh. Mahender is ordered

to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

November 11, 2022

Vinay

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