

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CRM-M-4733-2023
Date of Decision: 21st July, 2023

Bedharak ... Petitioner

Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Deepak Singh Saini, Advocate with
Ms. Vibha Nagar, Advocate for the petitioner.

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This second petition under Section 439 Cr.P.C. is filed seeking regular bail in FIR mentioned below :-

FIR No.	Date	Police Station	Sections
312	27.7.2016	Narnaund, District Hisar	148/149/302/323/ 180/452/325/506/ 120-B IPC, 1860

2. Earlier petition was dismissed as withdrawn on 5.4.2022.
3. Learned counsel for the petitioner claims parity with co-accused Satbir who was granted regular bail by this court on 3.9.2019 in CRM-M-34888-2019.
4. On 3.9.2019, the following order was passed :-

“This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 312 dated 27.07.2016, registered under Sections 148, 149, 302, 323, 452, 506, 325, 180, 506 and 120-B of the IPC at Police Station Narnaund, District Hisar.

Learned counsel for the petitioner has relied upon order dated 15.07.2019 passed in CRM-M-2645-2019, vide which, while granting

concession of regular bail to co-accused Virender, the following order was passed:

“Counsel for the petitioner has further submitted that as per the allegations in the FIR, the petitioner along with 20 other co-accused had caused fatal injuries to deceased Baljit and Dalbir. Counsel for the petitioner has referred to the FIR to argue that no specific injury is attributed to the petitioner and subsequently, when the statement of the injured/eye-witness under Section 161 Cr.P.C. was recorded, even then no specific injury is attributed to the petitioner. Counsel for the petitioner has also relied upon the statement of PW3, to support his argument. It is further submitted that this witness has specifically stated that the incident has taken place due to the enmity regarding the election of Sarpanch as the complainant party did not cast their vote in favour of one Joginder. It is also submitted that the petitioner is not related to said Joginder and as per this witness, the petitioner is residing next door to the house of the complainant and in the light of the cross examination of PW3, wherein he has stated that even on a previous occasion, the case is pending against the family of Khajan i.e. the father of the petitioner for causing injuries to the witnesses in the present case, and therefore, the defence of false implication is there. It is further argued that out of 29 prosecution witnesses, only 04 PWs have been examined and after recording the examination-in-chief of the PW-4, the application was moved by the prosecution under Section 319 Cr.P.C. for summoning some additional accused, which was partly allowed and one accused was summoned and both the sides have filed the revision petitions challenging the said order. Counsel for the petitioner has also relied upon the statement of PW4 – Sunita, who has stated that Joginder is the main conspirator behind this incident and therefore, the involvement of the petitioner is yet to be decided on the basis of the entire evidence. Counsel for the State, on instructions from ASI Surjit Singh, assisted by counsel for the complainant has not disputed the factual position as per statement of PW- 3 and PW-4 and affidavit of Medical Officer but opposed the prayer for bail.”

Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the statement of complainant Wazir s/o Mange Ram, it is stated that he along with his brother

Baljeet was standing outside the house when Varinder, Kulbir, Samunder, Ajmer, Jagminder, Karambir, petitioner Satbir, Dalel, Virender, Daljeet, Sonu, Mohan, Sombir, Pawanjit, Navdeep, Nathin, Sudesh, Shakuntala, Sheela, Banti and Sunita, in conspiracy with each other, entered into the house of Baljeet and all of them were carrying weapons like Gandassi and Dagger. The assailants opened attack on Baljeet, Dalbir, Balbir, Sunil, Sunita, Naveen, Neha and Nancy and they caused fatal injuries to Baljeet and Dalbir who later on died.

Learned counsel for the petitioner further submits that the petitioner is in judicial custody for the last 03 years and 13 days and out of total 29 prosecution witnesses, only 04 witnesses have been examined so far.

Learned counsel for the petitioner has referred to the statement of PW-3 injured Sunil Kumar, where he has attributed specific injuries to Khajan and Bimla, Dalel. PW-4 Sunita has stated that Virender inflicted a Gandasi blow on her head; Kulbir inflicted Gandasi blow on her left shoulder; Samunder inflicted Gandasi blow on her right elbow; Ajmer inflicted Gandasi blow on her right shoulder; Jagminder inflicted spear blow on her waist; Karambir inflicted lathi blow on her right knee and Ajmer inflicted spear blow on her husband Baljeet.

Learned counsel for the petitioner further submits that though the petitioner is named in the FIR, however, no overt act is attributed to him as no specific injury has been attributed to him by PW-3 and PW-4.

Learned counsel for the petitioner further submits that apart from aforesaid co-accused Virender, two more co-accused, namely Surender and Khazan Singh, have also been granted concession of regular bail by this Court, vide order dated 01.05.2019 passed in CRM M Nos. 37549 and 26164 of 2017.

Learned State counsel, on instructions from ASI Surjit Singh, has not disputed the factual position, however, opposed the prayer of the petitioner for grant of bail on the ground that the long custody of the petitioner is not a ground for grant of concession of regular bail.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in judicial custody for the last 03 years and 13 days; out of total 29 prosecution witnesses, only 04 witnesses have been examined so far and also in view of the fact that injured victims PW-4 and PW-3 have not attributed any injury to the

petitioner, the instant petition is allowed. The petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, on the following conditions:

(i)He will appear before the trial Court on each and every date and the trial Court will not entertain any application for exemption and in such eventuality, the regular bail granted to the petitioner shall stand cancelled automatically;

(ii)He will not try to influence any of the prosecution witness and will not enter the village, where the complainant/witnesses are residing and it will be open for the prosecution to move an application in case the petitioners are found misusing the concession of regular bail.”

5. Learned counsel for the State though opposes the prayer for grant of bail, he is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

6. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. The petition is allowed.

8. Since the main case has been allowed the pending application(s), if any is rendered infructuous.

**(AVNEESH JHINGAN)
JUDGE**

21st July, 2023
anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No