

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5713-2023
DECIDED ON:08.02.2023.

BIRMATI

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. KDS Hooda, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

This is a petition seeking regular bail in FIR No.327, dated 05.04.2022, under Sections 323, 341, 506 and 34 of the IPC, 1860 (Section 302 of the Indian Penal Code, 1860 added later on), registered at Police Station HTM Hisar, District Hisar.

Learned counsel for the petitioner has relied upon the statement of police report/final report under Section 173 of Cr.P.C., wherein during the course of investigation, it has transpired that only Mukesh was involved in the alleged occurrence who was seen armed with Danda in the CCTV footage coming out of the house and no other accused was seen in the CCTV footage. The footage has been minutely examined, which revealed that the deceased was seen coming out from his house at around 7:45 A.M. Thus it is contended that the petitioner has been prima facie falsely roped in the instant FIR due to vengeance and enmity as a reason of the previous conduct of the deceased

which has been elaborated in the FIR.

Learned State counsel, on the other hand, contends that the petitioner was actively involved in the occurrence who has given an iron rod blow and a brick blow on the forehead of the deceased alongwith other two co-accused.

However, the assertions made by the learned State counsel could not be corroborated from the investigation part referred by the counsel for the petitioner arising out of the report of Section 173 Cr.P.C., which creates a doubt on the presence of the petitioner at the place of occurrence, therefore, prima facie at this stage, this Court is convinced that the petition deserves to be allowed. Hence, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

08.02.2023
Meenu

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