

(220) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9896-2023

Date of Decision: 01.03.2023

MOHD. AARIF

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sanpreet Sandhu, Advocate
for the petitioner.

Mr. Neeraj Poswal, Asst. A.G., Haryana.

Mr. Diwan S. Adlakha, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail in case bearing FIR No.139 dated 01.07.2021 (Annexure P-1) registered under Sections 148, 149, 323, 302, 120-B, 201 IPC at Police Station Buria, District Yamuna Nagar.

2. The present FIR came to be registered at the instance of Chand son of Nasir Hasan, who stated that he was a driver. He had 9 brothers and sisters and one of his brothers namely, Shadab (deceased) was about 28 years old. On 01.07.2021, he received information from one Pintu Rana a friend of his brother Shadab that 10-12 boys had caused injuries to his brother on the bridge of Amadapur and had fled away. Based on this information, he went to the spot along with his brothers Tajim, Mausin and Rijwan. The villagers had already called an ambulance to the spot. He along with his brothers took

the injured brother Shadab to the Civil Hospital, Yamuna Nagar from where he was referred to the hospital at Chandigarh. However, on the way his condition deteriorated and his brother was got admitted at Gaba Hospital, Yamuna Nagar where he expired. He had come to know that on account of an old enmity, Abhishek Kamboj alias Shaka, Sonu Gujjar son of Satpal, Bilal son of Matlub, Usman son of Waqil, Charanjit Rana, Abid and Monty had caused injuries on account of which his brother had expired. There were other 10/12 other unknown persons. Action was sought against the accused.

One Mohit son of Jagbhushan was arrested on suspicion and he named Sachin Saini (since granted bail vide order dated 09.01.2023 passed in CRM-M-22870-2022), Bilal, Aarif (petitioner), Vasim Akram (since granted bail vide order dated 15.02.2023 passed in CRM-M-7242-2023), Intjar, Shehban Khan, Charanjit Rana and Kapil @ Kaplu (since granted bail vide order dated 09.02.2023 passed in CRM-M-41251-2022).

During further investigation, Bilal was arrested who disclosed the name of Mohit son of Jagbhushan, Sachin Saini (since granted bail), Bilal, Aarif (petitioner), Vasim Akram (since granted bail), Intjar, Shehban Khan, Charanjit Rana and Kapil @ Kaplu (since granted bail) as the accused who had caused injuries with an intention to kill. Thereafter, the petitioner and the other accused were arrested and suffered their disclosure statements. The recovery of a motorcycle and a wooden *Danda* was effected from the petitioner.

3. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR but only in the disclosure statement of his co-accused. A motorcycle has been recovered from the petitioner along

with a wooden *Danda* which has not been found to be blood-stained. The co-accused namely, Sachin Saini, Kapil @ Kaplu and Vasim Akram had been granted bail vide order dated 09.01.2023 passed in CRM-M-22870-2022, order dated 09.02.2023 passed in CRM-M-41251-2022 and order dated 15.02.2023 passed in CRM-M-7242-2023. The petitioner was also entitled to the similar relief, as he was in custody since 19.07.2021 and none of the 46 prosecution witnesses had been examined so far.

4. On the other hand, the learned State counsel contends that the serious nature of the allegations did not entitle the petitioner to the grant of bail. He however, does not dispute the fact that co-accused Sachin Saini, Kapil @ Kaplu and Vasim Akram have been granted the concession of bail.

5. The learned counsel for the complainant vehemently opposes the bail application contending that the serious nature of the allegations did not entitle the petitioner to the grant of bail.

6. I have heard the learned counsel for the parties at length.

7. Admittedly, the petitioner is not named in the FIR but in the disclosure statement of his co-accused. The evidentiary value of the said statement would be a matter of adjudication during Trial. The wooden *Danda* allegedly recovered from the petitioner has not been found to be blood-stained. The petitioner has been in custody since 19.07.2021 and none of the 46 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded in the near future. In such a situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Aarif son of Mohd. Ahmad 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.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

01.03.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No