

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-12463-2023 (O&M)
Date of Decision:- 20.03.2023

Shri Parkash @ Pintu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ayushka Sharma, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana,
assisted by ASI Jagdish.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.75, dated 25.02.2021, Police Station Sadar Sonapat, District Sonapat, under Sections 323, 379, 506, 34 IPC (Section 302 IPC added later on).
2. The FIR in question was lodged at the instance of Deepak (brother of deceased Deep Chand) wherein it is alleged that on 23.02.2021, he found his brother lying outside the Gate in serious condition. On being asked, his brother disclosed that Parkash Attri and his wife had caused injuries to him and they had also snatched his mobile phone and cash amount of Rs.50,000/- When complainant confronted the

accused Parkash, he challenged the complainant to do whatever he liked. When the complainant asked as to why his brother was beaten then Parkash said that this time his brother had been saved but next time he will be killed. On this, initially FIR was registered under sections 323, 506, 379 read with section 34 IPC. Thereafter, on 28.02.2021, during treatment, injured - Deep Chand died on account of injuries sustained by him and consequently Section 302 of IPC was added.

3. Learned counsel for the petitioner submits that he has falsely been implicated in the present case and that the falsity would be evident from the fact that when the complainant Deepak was examined during the course of trial, he did not support the case of prosecution during the course of cross-examination and virtually demolished the case of prosecution. It has further been submitted that even the father of the deceased i.e. PW-17 Prem Nath has given a clean-chit to the petitioner.
4. Opposing the petition, learned State counsel submits that it is a case where the petitioner apparently has been able to win over the complainant and that while the complainant PW-10 Deepak supported the case of prosecution in his examination-in-chief, but when he was cross-examined after about 8 months, he did not fully support the case of the prosecution. It has been submitted that the medical evidence fully corroborates the version put forth by the complainant. Learned State counsel has however, informed that the petitioner as on date has been behind bars since the last about 2 years. It has also been

informed that 14 out of the cited 28 PWs have been examined and that the petitioner otherwise is not involved in any other case.

5. This Court has considered the rival submissions.
6. While there are specific allegations to the effect that the deceased, before his death, had disclosed that he had been inflicted injuries by the petitioner, and the complainant also stated accordingly in his examination-in-chief but during the course of his cross-examination he diluted the case of prosecution. The relevant extract from cross-examination of PW-10 Deepak (complainant) reads as follows:

“I cannot tell the registration number and make of alleged vehicle. I have not seen the car near our house. Self stated that car had not come in front of our house in my presence. My brother sustained injuries at our house after drinking liquor. My brother was unconscious and he was unable to speak, then I shifted him in the hospital. My brother did not disclose anything before me as he was unconscious. My brother became unconscious as soon as he sustained injuries at our house and he remained unconscious till his death. Mobile phone of my brother was recovered from our house. NO one had snatched the mobile phone of my brother. I do not know accused Shri Parkash and Jagmati personally. Self stated that perhaps they are residing in the same locality. Accused Shri Parkash and Jagmati did not cause any injury to my brother in my presence. Shri Parkash never met me at any point of time. I saw him in the court through VC and I saw him many days ago in our locality. My statement was not recorded by the police. My brother was unmarried as he was habitual drinker. My brother Deep Chand since deceased met with an accident in the month of January 2021. My brother had sustained head and eye injuries in that accident.”

7. Similarly, when the father of the deceased i.e. PW-17 Prem Nath was examined, he categorically stated that the petitioner had not murdered his son.
8. Having regard to the aforestated position wherein the witnesses have not fully supported the case of the prosecution and while noticing that the petitioner has been behind bars since the last about 2 years, further detention of the petitioner is not justified. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.03.2023
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No