

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15729 of 2022(O&M)
Date of Decision: 18.05.2023

Ram Parkash

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Saurabh Sharma, Advocate
For the petitioner.

Mr. Vishal Kashyap, AAG Haryana.

KARAMJIT SINGH, J.

CRM-22157 of 2023

This is an application for pre-ponment of main case (CRM-M-15729 of 2022), which is pending for 06.07.2023.

For the reasons mentioned in the application the same is allowed and hearing of the main case is pre-poned and is taken up for hearing today itself.

CRM-22158 of 2023

Application is allowed, as prayed for and Annexures P-3 and P-4 are taken on record subject to all just exceptions.

CRM-M-15729 of 2022

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 224 dated 17.10.2021, registered under Sections 148, 149, 323 and 302 IPC at Police Station Saha, District Ambala.

2. The allegations in nutshell are that on 17.10.2021 complainant Harjot Singh got recorded his statement with the police that on 16.10.2021 at 8:30 p.m. they were coming back on a harvester combine driven by Rajesh Kumar and harvester combine of Dinesh Baba was going ahead of them and on the way harvester combine of Dinesh Baba got entangled in electricity wires, as a result of which wires were snapped, resulting in disruption of electricity to the houses of Dharampal and Mamraj etc. and their family members came out and started fighting with Dinesh Baba and when complainant and his relative Mandeep tried to intervene, Dharampal, Munish and Sudesh started beating Pritpal Singh, father of complainant who had also reached there. Dharampal raised *lalkara* and then petitioner and other accused armed with wooden sticks and iron rods came there and attacked them. Sudesh hit iron rod on the head of Mandeep, Jasbir also attacked Mandeep with iron rod while Sukhbir gave *binda* blow to Mandeep and then other accused persons also assaulted Mandeep and lateron Mandeep was taken to civil hospital, Ambala where he was declared dead. During investigation the petitioner was arrested on 26.10.2021 but no incriminating article was recovered from his possession.

3. The counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case at the instance of the complainant and even otherwise no specific injury has been attributed to the petitioner and there are general allegations that petitioner, Manish, Dharampal, Karampal, Ashok, Mamraj, Rajinder, Jagmal and another 15-20 persons armed with wooden sticks and iron rods attacked Mandeep Singh and caused injuries to him. The counsel for the petitioner further submits that as per the allegations appearing on the record at the time of occurrence

the petitioner was armed with wooden *danda*. It is further submitted that during trial all the material witnesses have not supported the case of prosecution and copies of their depositions are available on record. So, prayer is made that the petitioner be released on bail.

4. The present petition is resisted by the State counsel who submits that the petitioner was named in the FIR and was part of the unlawful assembly which committed murder of Mandeep. However, the State counsel on instructions from ASI Sanjay Kumar has not disputed the fact that only allegations against the petitioner are that he attacked Mandeep with wooden *danda* and later on he had thrown away the same and as such recovery of wooden *danda* was not effected from the petitioner. The State counsel further apprised the Court that trial is going on and all the material witnesses are examined including the complainant. That, however, another 24 witnesses are still to be examined on behalf of the prosecution.

5. I have considered the submissions made by learned counsel for the parties.

6. Admittedly, no specific injury has been attributed to the petitioner who is named in the FIR and as per State counsel was armed with wooden *danda* at the time of occurrence. The petitioner was arrested on 26.10.2021 and no incriminating article was recovered from his possession. From the perusal of the testimonies of PW3 Pritpal Singh, PW4 Maninder Singh, PW5 Rajesh Kumar and PW7 Dinesh, it appears that while appearing in the witness box they turned hostile. It also appears that complainant Harjot Singh in his cross examination has not supported the case of prosecution. Further, it will take time for the trial to conclude as another 24 witnesses are still to be examined on behalf of prosecution. In the given

circumstances, no purpose is going to be served by prolonging the judicial custody of the petitioner.

7. In light of above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

18.05.2023

Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No