

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 15053 of 2023
Reserved on :06.10.2023
Pronounced on:- 07.10.2023

GHANSHYAM

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate,
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

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SANJIV BERRY, J.

The instant petition has been preferred by the petitioner under
Section 439 of the Code of Criminal Procedure for grant of regular bail to
the petitioner in the following case:-

FIR No.	Dated	Sections	Police Station
49	09.03.2021	302,452,323,148, 149, IPC (later deleted Section 148 & 149 and added Section 34 IPC).	Julana, District Jind

2. In *nutshell* the case of the prosecution is that on the basis of the
statement given by complainant Sona wife of Lillu Ram that she had 4 sons

who were living separately and she used to live with her son Vijay who is married to Kavita and having 5 sons. Vijay was having matrimonial dispute with Kavita and about a week ago she had gone to her matrimonial house by taking her 4 sons with her while leaving elder Son Ayush aged about 15 years there. It is alleged that while leaving house Kavita had threatened that she was fed up with Vijay and would get him killed from her brothers. As per complaint on 08.03.2021 while the complainant, her son Vijay and grandson Ayush were sleeping than at about 3:00 am the complainant heard noise from the room of the first floor where Vijay and Ayush were sleeping and on going there she saw brother-in-law of Vijay namely Surinder, Ghanshyam, Monu and two other unknown having lathis and dandas in their hands were beating them, upon complainant raising alarm they ran away from the spot proclaiming that they had killed father and son. Injured were shifted to hospital where Vijay succumbed to the injuries. Accordingly the case was registered and after completion of investigation challan was presented in the Court.

3. It is *inter alia* contended by the learned Senior counsel appearing on behalf of the petitioner that the petitioner has been in custody in this case since 18.04.2021 and the material witnesses of the prosecution have already been examined and neither the complainant nor injured eye witnesses have lend any support to the case of the prosecution as against the present petitioner and same create doubt against the authenticity of the prosecution story. He submits that the completion of the trial will take sufficient long time and no purpose would be served by keeping the

petitioner in custody any longer, as such prayed for grant of bail.

4. Per contra learned State counsel on the other hand opposed the bail application by submitting that the trial of the case is still going on and the petitioner is involved in the commission of heinous crime, however he has not disputed the fact that the complainant as well as injured eye witness have not lend any support to the case of the prosecution qua the present petitioner. He prays for dismissal of the petition.

5. After considering the rival contentions and perusing the record, it is not disputed that the present case was registered on the statement of the complainant Sona whereby she proclaimed that her daughter in law while leaving the house along with her 4 sons consequent upon some dispute with her son Vijay had proclaimed that she was fed up with Vijay and will get him killed from her brothers. Petitioner happens to be one of the brother of the said Kavita. The petitioner was arrested in this case on 18.04.2021 and since then he is in custody. Admittedly, the material witnesses of the case of prosecution viz the complainant as well as injured eye witness have not lend any support to the case of the prosecution qua the present petitioner. The case of prosecution is still at the stage of leading evidence and only 5 prosecution witnesses out of 20 witness cited have been examined till date as is evident from the reply submitted by the State. This being the position, it will take sufficient long time for prosecution to conclude the trial, the criminal liability if any on the petitioner would only be determined after conclusion of trial and keeping in view the facts and circumstances the petitioner cannot be allowed to remain in custody and incarnation being in

custody since 18.04.2021.

6. Resultantly, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

07.10.2023
Gyan

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |