

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 19999 of 2023
Reserved on :09.10.2023
Pronounced on:20.10.2023

SIKANDAR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present:- Mr. Arpandeeep Narula, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

.....

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 (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
393	20.10.2021	302, 452 and 323 IPC	Ellenabad, District Sirsa

2. In a *nutshell*, the case put forth by the prosecution is that case
was registered on the statement of complainant Bhoop Singh alleging that he
along with his nephew Tarsem Lal were residing in room built in the fields

and in the adjoining fields of Rajinder Singh, two labourers namely Sikander and his brother-in-law Birju were also residing. On 19.10.2021 while he was sleeping than Sikander and Birju armed with Dandas broke open the door and attacked his nephew Tarsem Lal. When the complainant tried to rescue him, he was also thrashed and he ran away from the spot. Sikander and Birju chased him but he managed to escape on tractor and reached village Ratta Khera and thereafter along with his relative Jagroop Singh he came back to the fields and found his nephew Tarsem Lal lying on ground. One Rajender Singh also came there in his car and they took Tarsem Lal to a private hospital, Ellenabad from where he was referred to City Hospital, Sirsa and ultimately on reaching Government Hospital Sirsa he was declared brought dead. Accordingly, the FIR was registered.

3. It is *inter alia* contended by the learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that although the complainant had named the petitioner as well as one Birju but the police after investigation had exonerated the said Birju. Although, the allegations qua both of them are similar. He contends that after presentation of challan and during course of trial prosecution has examined Bhoop Singh as PW1 and also examined PW-2 ESI/HC Umed Singh, PW-3 Gurcharan Singh and PW-4 Rajender Singh and PW-5 Roshan Lal who happen to be material prosecution witnesses but none of them have identified the present petitioner to be the person who had committed the crime and infact all of them have been declared hostile. He submits that in this case petitioner is in custody since 20.10.2021 and as

such prayed for grant of bail.

4. Learned State counsel has referred to the detailed reply dated 24.08.2023 submitted by the Deputy Superintendent of Police, Ellendbad, District Sirsa to submit that the aforesaid FIR was registered at the instance of complainant Bhoop Singh to the fact that the petitioner along with one Birju had caused injuries with Dandas on the person of his nephew Tarsem Lal which ultimately led to his death. He submitted that the complainant Bhoop Singh happens to be eye witness to the occurrence but had not supported the case of the prosecution. He admitted that the private witnesses to the occurrence have also not supported the prosecution case and trial is pending in the Court of learned Sessions Judge, Sirsa for 06.11.2023.

5. After considering the rival contentions and perusing the record, admittedly, the present case was registered against the petitioner and also one Birju for having caused injuries to Tarsem Lal, the nephew of the complainant Bhoop Singh which ultimately led to his death. As per the case of prosecution, Bhoop Singh, complainant happens to be an eye witness to the occurrence. It is not disputed that after investigation aforesaid Birju against whom same allegations were there had been exonerated by the police and the challan was presented qua the present petitioner. It is also not disputed that during the course of trial the complainant Bhoop Singh appeared in the witness box as PW-1 and had not led any support to the case of the prosecution and had categorically stated that the petitioner is not the culprit who had hit his nephew on the fateful day. Similarly other private witnesses examined by the prosecution referred to above have also not led

any support to the case of the prosecution that the petitioner had inflicted injuries on the person of deceased Tarsem Lal. Admittedly, the petitioner is in custody since 20.10.2021 and the trial is still going on and is fixed for prosecution evidence for 06.11.2023.

6. Considering the above circumstances and also the fact that the complainant as well as private witnesses have not connected the petitioner with the crime and he being in custody since 20.10.2021 no purpose would be served by keeping petitioner in custody any longer, 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

20.10.2023
Gyan

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