

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25103-2023 (O&M)

Date of decision: 06.07.2023

Sudesh Pal

...Petitioner

VS

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE ARUN MONGA

Present: Mr. P.S.Ahluwalia, Advocate,
For the petitioner.

Mr. Karan Garg, AAG, Haryana.

ARUN MONGA, J. (ORAL)

CRM-25001-2023

This is an application for preponement of the main case from
06.07.2023 to an early actual date of hearing.

Since the main case is already fixed for today itself, instant
application is rendered infructuous. However, Annexures A-2 to A-5 are
taken on record.

Main case

Reply by way of affidavit of Anil Kumar, HPS, Deputy
Superintendent of Police, Barara, District Ambala on behalf of respondent
has been tendered in course of hearing, which is taken on record.

2. Aggrieved on being declined bail by learned trial Court,
petitioner before this Court, aged 35 years, seeks his release as an undertrial
in criminal case bearing FIR No.224 dated 17.10.2021, registered under
Sections 148/149, 323 and 302 of the Indian Penal Code, 1860 at Police
Station Saha, District Ambala.

3. Per FIR, allegations in nutshell as disclosed by complainant Harjot Singh are that on 16.10.2021 at 8.30 p.m., a harvester combine was being driven by Rajesh Kumar on which complainant was sitting too and, another harvester combine of Dinesh Baba was being driven ahead of them. While en-route 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. 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. An Fir was registered and during investigation, petitioner was arrested on 17.10.2021.

4. Learned counsel for petitioner submits that FIR was registered on the basis of the statement made by complainant Harjot Singh alleging that on 16.10.2021, his brother Mandeep Singh had died in a scuffle. He submits that date of occurrence is 16.10.2021, while the FIR was registered after delay of one day, i.e., on 17.10.2021. Deliberate delay was used by the complainant party to inflate the number of accused by levelling allegations against those not even involved. Petitioner has been falsely implicated in the case. All the material witnesses including the complainant have already been examined and they have turned hostile. No other FIR/case is pending against

the petitioner. He further submits that co-accused have already been granted bail by this Court vide orders dated 18.05.2023, 24.05.2023, 26.05.2023 contained at Annexures A-2 to A-5.

4.1 Learned counsel for the petitioner submits that petitioner has two minor children, who are students and he is the only breadwinner of the family. His parents are also dependent upon him.

5. Learned State counsel strenuously opposes the instant petition. He submits that case before the court below is fixed for hearing on 31.07.2023 and trial of the case would be completed very shortly. On court query, he admits that no other case is pending against the petitioner and co-accused as aforesaid are on bail.

6. I have heard learned counsel for the parties and gone through the case file.

7. Petitioner is in custody since 17.10.2021. Investigation is complete. Challan has been presented. Charges have been framed. Out of 31 witnesses, only 09 have been examined and 22 witnesses are yet to be examined. Trial is still likely to take long time, whereas petitioner has already been languishing in jail for the past one year and eight months in preventive custody. Even otherwise, petitioner is also entitled to bail on the ground of parity since his co-accused have already been granted bail by this Court.

8. Considering the overall scenario, particularly the complainant and material witnesses having not supported the prosecution version, but at the same time, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

9. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
10. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
11. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

06.07.2023
Vandana

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