

(225)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28355-2023

Date of Decision: 03.08.2023

MUKESH

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.K. Lathwal, Advocate
for the petitioner.

Mr. Neeraj Poswal, Asst. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.05 dated 11.01.2021 registered under Sections 302, 34 IPC, 1860 at Police Station Gannaur, District Sonipat, Haryana.

2. The present FIR came to be registered at the instance of Vikram son of Rambhaj Kashyap who stated that his brother Sushil (deceased) was working as a daily wage labour. On 10.10.2021, on hearing noise, when he (complainant) came into the street, he found that Mukesh (petitioner) and Sandeep son of Rambhaj who were their neighbours were quarrelling with his brother Sushil. Mukesh was armed with an iron forceps whereas Sandeep was armed with a wooden stick. They gave injuries to his brother on the head and face and killed him. Legal action was sought.

3. The learned counsel for the petitioner contends that the petitioner is in custody since 12.01.2021. Only 08 of the 16 prosecution

witnesses had been examined so far. Vikram, the complainant and only material witness has been examined as PW-6 and has not supported the prosecution case. The weapon recovered i.e. Chimta from the petitioner also does not show any blood upon it. He, therefore, prays that the petitioner was entitled to the concession of bail.

4. A reply dated 02.08.2023 by way of an affidavit of Gorakh Pal, HPS, Assistant Commissioner of Police, Ganaur, Sonipat has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the nature of the allegations levelled against the petitioner did not entitle him to the grant of bail. He, however, concedes that the complainant-Vikram has been examined and has turned hostile as also the fact that the petitioner is in custody since 12.01.2021 and only 08 of the 16 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties and gone through the record.

6. Admittedly, Vikram (PW6) who is the first informant has been examined and has not supported the prosecution case. Whether the remaining evidence available on the record is sufficient to affix liability upon the accused shall be a matter of adjudication during the course of trial. Admittedly, the petitioner is in custody since 12.01.2021 and only 08 of the 16 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In such a situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Mukesh son of Shri Rambhaji is ordered

to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

03.08.2023

JITESH

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