

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-27367-2023 (O & M)
Date of decision: 02.06.2023

Deepak @ Deepak Kumar

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Keshav Pratap Singh, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Ashit Malik, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in a case FIR No.507 dated 18.11.2021 under Sections 148, 149, 341, 323, 324, 325, 302 and 506 IPC and Section 25 of the Arms Act, 1959 registered with Police Station Matlauda, District Panipat.

The brief facts of the case are that the statement of Bir Singh son of Pawan was recorded to the effect that on 17.11.2021 at about 8.30/9.00 p.m. he and his cousin Sunil son of Shiv Kumar were working in the fields near the canal next to the drain. Sunil proceeded on his motorcycle from the fields to purchase some articles from the shop at some distance. Meanwhile, Deepak (petitioner) son of Badlu and Mohit (since granted bail vide order dated 10.05.2023 passed in CRM-M-22639-2023) son of Ajab Singh came on a tractor loaded with dirty water and started dumping the

dirty water in the drain. When Sunil asked as to why they were dumping dirty water near their fields, they struck Sunil with tractor which was being driven by Mohit. A fight ensued and hearing the noise of the fight, Sudarshan son of Jai Kishan, Sheeshpal son of Mahendra and Sachin son of Pawan, who were present in the nearby fields, reached at the spot and intervened. In the meantime, Deepak (petitioner) called Vikas son of Ramesh, Sandeep son of Ramesh (since granted bail vide order dated 24.08.2022 passed in CRM-M-36351-2022), Ajay son of Omprakash (since granted bail vide order dated 16.08.2022 passed by this Court in CRM-M-31183-2022), Rohit son of Badlu (granted bail vide order dated 13.06.2022, Annexure P-9) and Vinod son of Narendra (granted bail vide order dated 12.07.2022, Annexure P-10) by making a phone call. All these persons reached the spot with knives, *gandasis* and *bindas*. Vikas gave 4/5 knife injuries to Sunil son of Shiv Kumar (deceased) and 4-5 knife blows to him (complainant). On the intervention of Sachin, Sudarshan, Sheeshpal and others, they too were caused injuries with knives, *gandasi* and *bindas*. Due to the injury suffered, Sunil fell at the spot and the accused fled away from there. Sunil died on the way to the Hospital.

The learned counsel for the petitioner contends that there is a delay of 08 hours in lodging the FIR and it has been registered after due deliberation. So far as the present petitioner is concerned, he has not been attributed any injury on the deceased. He also contends that as per the statements under Section 161 Cr.P.C. of Sachin, Vishal, Jitender, Sudarshan and Sheeshpal, no specific injury has been attributed to the petitioner either on the person of the deceased or on the person of any of the injured. He, thus, contends that as the petitioner is in custody since 18.11.2021 and only

03 of the 29 witnesses cited in the list of prosecution witnesses have been examined, he deserves the concession of regular bail.

The learned State counsel, on the other hand, contends that the petitioner and all the other accused had committed the offences in question and the petitioner was liable with the aid of Section 149 IPC. There was a video recording of the incident which shows that the incident did take place in the manner as suggested in the FIR. As many as 04 other persons from the complainant-party, namely, Sachin, Sudarshan, Bir Singh and Sheeshpal have received injuries, and therefore, the petitioner does not deserve the concession of regular bail. He, however, concedes that five co-accused of the petitioner, namely, Rohit, Vinod, Ajay @ Ajju, Sandeep and Mohit have been granted the concession of regular bail by this Court vide orders dated 13.06.2022, 12.07.2022, 16.08.2022, 24.08.2022 and 10.05.2023 (Annexures P-9 to P-13 respectively).

The learned counsel for the complainant, on the other hand, states that the serious nature of the allegations did not entitle the petitioner to the grant of bail. He, however, does not dispute the fact that five co-accused of the petitioner have been granted the same concession.

I have heard the learned counsel for both the parties at length.

As per the case of the prosecution, no specific injury has been attributed to the petitioner either on the person of the deceased or on the person of any of the injured. Therefore, it would be a matter of adjudication during trial as to whether the petitioner could be convicted with the aid of Section 149 IPC. Admittedly, five co-accused of the petitioner, namely, Rohit, Vinod, Ajay @ Ajju, Sandeep and Mohit have been granted the concession of regular bail by this Court vide orders dated 13.06.2022,

respectively). Further, as many as 29 prosecution witnesses have been cited in the list of witnesses and only 03 of them have been examined so far. Therefore, as the trial of the case is not likely to be concluded in the near future, the further incarceration of the petitioner is not required.

Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Deepak @ Deepak Kumar is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

(JASJIT SINGH BEDI)
JUDGE

June 02, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No