

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-28497-2022

Date of Decision: 19.01.2023

Arvind

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. R.A. Sheoran and Mr. Sushil Sheoran, Advocates
for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

Mr. Shokeen S. Verma, Advocate for the complainant.

DEEPAK GUPTA, J.

By way of this petition under Section 439 of the Code of Criminal Procedure, petitioner seeks regular bail in case FIR No.156 dated 18.09.2021 under Sections 148, 149, 323, 506 IPC (Sections 302 & 120B IPC added later on) registered at Police Station Bond Kalan, District Charkhi Dadri.

FIR was registered on the statement of Azad Singh, the father of the deceased. It is alleged that on 14.09.2021, petitioner Arvind son of Ajit along with Ajay son of Anand, Ankur son of Jagtu, Rahul son of Sukhbir, Dinesh son of Jagbir, Ashok son of Rakesh and some unknown persons thrashed deceased Atul aged about 17½ years and fled away. Complainant Azad Singh had also scolded his son not to fight. Atul was brought to home and Turmeric Ghee Milk was given but to no relief. He was taken to Kadam Hospital, Bhiwani, where he became unconscious. He was then referred to and admitted in Trauma Centre PGIMS Rohtak, where he succumbed to the injuries 19.9.2021.

It is submitted by the petitioner that during investigation, police recorded statement of all the 5 independent eye-witnesses under Section 161 Cr.P.C. (Annexure P-4 to Annexure P-8), who told that deceased Atul had entered the house of Jaibir with bad intention on the daughter of said Jaibir. Boys of the village caught-hold of Atul and informed his parents. Mother and father of Atul reached the spot. Mother took a danda from the hands of Ankur and handed over the same to Azad Singh, the father of Atul. Azad Singh then gave brutal beatings to Atul. At the time when parents of the injured reached the spot, Atul was fully conscious. Moreover, Rahul & Ajay, who were named in the FIR as assailants, were found innocent during investigation. Petitioner further submits that he is in custody since 19.02.2021 with no criminal antecedents. He submits that he has been falsely implicated. Police recovered a video clip prepared at the time of incident, in which father of the deceased is shown giving beatings to the deceased. It is on the basis of that video clip that police implicated the father of the deceased i.e. complainant Azad Singh as one of the accused.

Learned counsel for the petitioner further submits that there is delay of 4 days in registration of FIR i.e. the occurrence was of 14.09.2021 and FIR has been registered on 18.09.2021. Father of the deceased did not make any statement intentionally when police went to the Kadam Hospital, whereas mother did not make the statement because beatings had been given by the father himself. In the ruqqa dated 15.09.2021 sent to the police, it was mentioned that Atul was admitted due to unknown assault as told by the attendant. Petitioner further submits that father of the deceased i.e. Azad Singh, who was made an accused, was later on released on bail by learned

Additional Sessions Judge, Charkhi Dadri. Although in the MLR six injuries are shown but the PMR records 14 injuries, which are on the non-vitals parts. Cause of death was due to complications on account of injuries. With all these submissions, prayer is made by petitioner to grant regular bail.

Learned State counsel though does not dispute the fact that Azad Singh - complainant of the case i.e. father of deceased was later on made an accused in the case on the basis of video clip but it is submitted that as many as 14 injuries were found on the person of the deceased in the post-mortem report. It has been observed by the learned Additional Sessions Judge in the order granting bail to Azad Singh that he could not have intention to murder his own son. It is submitted that deceased was given merciless beatings resulting in his death and that witnesses are yet to be examined and so, petitioner does not deserve to be given the benefit of bail.

I have considered submissions of both the sides and peruse the record.

As per the eye-witness account evident from statement of witnesses Shri Bhagwan, Ajit Singh, Parveen Kumar, Ramphal and Jaibir (Annexure P-4 to Annexure P-8) recorded under Section 161 Cr.P.C., on 14.09.2021 at about 09-09.30 p.m. deceased Atul had entered the house of Jaibir with bad intention on his daughter. Petitioner and others caught-hold of Atul. Father of Atul namely Azad Singh along with his mother Shakuntla reached the spot. Being angry due to the act of his son, Azad Singh thrashed the deceased with danda.

Even if the version of the FIR recorded on the statement of complainant i.e. father of the deceased is taken into account, the same read

with the eye-witness account make it to appear that petitioner along with others thrashed the deceased with dandas, in order to teach him a lesson as he had entered the house of Jaibir with a bad intention on his daughter. Although 14 injuries are shown in the PMR of the deceased but no specific injury is attributed to the petitioner. All the injuries are on the non-vital parts of the body of the deceased. Father of the deceased Azad Singh i.e. the complainant was also implicated as an accused on the basis of video clip recorded at the spot, in which he is shown giving beatings to his son i.e. deceased Atul. Petitioner is already in custody since 19.09.2021 i.e. for the last more than 1 year and 3 months. Trial may take time to conclude.

Having regard to all the aforesaid facts and circumstances but without commenting anything further on the merits of the case, I find it to be fit case where petitioner should be given the benefit of regular bail. As such, petitioner be released on bail on furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court/learned Chief Judicial Magistrate Charkhi Dadri.

January 19, 2023
Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No