

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
232-A

CRM-M-38765-2022 (O&M)

Date of Decision: 13.04.2023

Jai Bhagwan @ Bhagwana

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Sanpreet Sandhu, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

Custody certificate dated 12.04.2023 filed by learned counsel
for the State is taken on record.

The petitioner has filed the present petition under Section 439
of the Code of Criminal Procedure, 1973 for grant of regular bail in case
FIR No. 245 dated 24.04.2021 registered under Sections 323 and 302 read
with Section 34 IPC (Sections 148 and 149 IPC were added later on) at
Police Station Indri, District Karnal.

According to the prosecution story, on 23.04.2021 at around
4:00 P.M., when Shivam @ Shiva @ Raja (deceased), was dancing in the
marriage of his friend Vijay at village Kalri Nanhera, then co-accused Jai
Bhagwan armed with lathi had tried to stop the DJ, upon which Shivam @
Shiva, raised objection. The deceased and his companions had told Jai

Bhagwan that they would stop the DJ after sometime. On this, Jai Bhagwan, started hurling abuses upon Shivam in anger. Thereafter, on hearing the noise, brother of Jai Bhagwan and his sons armed with lathis and dandas also reached at the spot and started hurling abuses upon the complainant party. Jai Bhagwan, aforesaid gave a lathi blow on the head of Shivam. Thereafter, Sonu and other companions reached at the spot and when they tried to rescue Shivam and his friends, the assailants have also caused injuries to aforesaid Sonu, Ankush, Angrej Singh and others. On raising hue and cry, public gathered at the spot and all the assailants have fled away from the spot along with their respective weapons. During treatment, Shivam was expired.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner has falsely been implicated in the instant case as the allegations levelled against the petitioner are false and concocted one. Learned counsel for the petitioner further contends that out of total 29 prosecution witnesses, 10 have already been examined by the trial Court. All the material/star witnesses, namely, (i) PW-1 Vikas, brother-in-law of deceased; (ii) PW-2-Ankush-injured eye-witness; (iii) PW-3 Sohan Lal @ Sonu-injured; (iv) PW-4 Aman-eye-witness; (v) PW-5 Angrej Singh-injured; (vi) Mahinder Singh-Uncle of deceased-Shivam, have been declared as hostile because they have not supported the prosecution version. Petitioner is in custody since 02.05.2021. Trial is likely to take time and no purpose will be served by keeping him in custody. Thus, it is prayed the petitioner may be released on regular bail.

On the other hand, learned State Counsel has vehemently

opposed the submissions made by learned counsel for the petitioner.

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

Keeping in view the facts and circumstances of the case, custody period of the petitioner, the fact that conclusion of trial shall take sufficient long time and also the fact that all the star/material witnesses have been declared hostile as they have not supported the prosecution case, but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Accordingly, the present petition is allowed and petitioner-Jai Bhagwan @ Bhagwana, is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

Pending application(s), if any, stand disposed of in view of the abovesaid judgment.

13.04.2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No