

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(218)

CRM-M-40630-2023
Date of decision:- 09.11.2023

Sharvan ... Petitioner
Versus
State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ravinder Phogat, Advocate and
Mr. Deepak Misra, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. This is the second petition filed under Section 439, Cr.P.C.
seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
526	16.11.2019	Tosham, District Bhiwani	147, 148, 149 and 302, IPC

2. Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Anil Kumar on the allegation that on 15.11.2019, his brother, Sunil Kumar, took his motorcycle from him and went to village Karun for some personal work. About 40 minutes later, he got a phone call from his brother informing him that Jai Narain and his sons and a girl have inflicted injuries on him with an ice breaker and he is lying in an injured condition at Petrol Pump of village Karun. Complainant along with his uncle, Satbir Singh and his son, Ashwani, immediately arranged a

vehicle and got him admitted in Civil Hospital, Bhiwani from where he was referred to PGIMS, Rohtak, but he unfortunately expired on the way.

3. Counsel for the petitioner contends that petitioner has not been named in the FIR, although he is son of Jai Narain and is alleged to have inflicted injuries on the deceased. Counsel argues that the petitioner has been falsely implicated, there is a delay of 23 hours in the lodging of the FIR and the entire prosecution story is based on heresy. By referring to the forensic report, Annexure P-2, counsel submits that high level of alcohol was detected in the blood of the deceased and he was drunk at the time of alleged incident. Counsel asserts that all the material prosecution witnesses have been examined and the petitioner, who is in custody since 18.11.2019, deserves to be enlarged on bail, more so, as the previous petition, preferred by him, was withdrawn after arguments in November, 2021.

4. Status report by way of an affidavit of Assistant Superintendent of Police, Bhiwani, District Bhiwani has been filed on behalf of State-respondent, which is taken on record. By referring to it, State counsel submits that the petitioner along with the co-accused had attacked the deceased as he had allured petitioner's sister and eloped with her. By making a specific reference and upon categorical instructions from SI, Ram Bhaj, State counsel submits that the fatal injury has been attributed to Jai Narain, petitioner's father, and petitioner is accused of giving fist and leg blows to the deceased. As per her instructions, almost all the prosecution witnesses have been examined.

5. I have heard counsel for the parties and considered their rival submissions.

6. Petitioner is languishing in detention for the last almost forty eight months. All the vital prosecution witnesses have been examined. Although the trial is at an advanced stage, but noticing the role attributed to the petitioner as well as nature of allegations levelled against him and the length of detention, this Court has no hesitation in accepting the prayer made in the petition.
7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.
8. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

09.11.2023

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No