

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

**CRM-M-44093-2022**

(1) Pawan ..... Petitioner

Versus

State of Haryana .....Respondent

**CRM-M-46470-2022**

Date of Decision: 03.05.2023

(2) Deepak ..... Petitioner

Versus

State of Haryana .....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Anshul Singh, Advocate and  
Mr. Nihul Pratap Singh, Advocate, for the petitioners.  
Mr. B.S. Virk, Deputy Advocate General, Haryana.

**Rajesh Bhardwaj, J. (ORAL)**

This order will dispose of above-mentioned two petitions, as both have arisen out of a common FIR.

Prayer in the present petitions is for the grant of regular bail to the petitioners in a case FIR No.132 dated 11.05.2021, registered under Sections 148, 149, 302, 323, 379-B, 427, 452, 34 IPC, at Police Station Chandhut, District Palwal.

As per facts of the case, Lachhi Ram son of Karan Singh made a statement, wherein, it was alleged that on 10.05.2021 at about 8:00 p.m., his brother Mohar Pal called a meson to get the boundary wall constructed of his 525 square yards land situated at village Khedla. When they were in the process then Rajpal son of Karan Singh came there and objected to the same alleging that the land belongs to them. They tried to convince him,

however, he left the place by threatening them. Thereafter, both the sides went to their home, however, after some time Rajpal, Kiran, Gulshan, Pawan, Lata, Ojender, Pintu, Deepak, Prahlad and Sonu by conspiring with each other armed with sticks, axe, farsa and iron rod with an intention to kill the complainant and his family, broke the door of the house of the complainant and forcibly entered there and thereafter, they opened attack on the complainant and his family members and caused injuries. Due to the injuries caused, the complainant and his wife Kranti and his brother Mohar Pal suffered injuries. They were shifted to the hospital, where his wife Kranti succumbed to the injuries. Request was made to take legal action against all the culprits. On the basis of the complaint, a formal FIR was lodged and the investigation commenced. Postmortem of the deceased was carried out and the statements of the witnesses were recorded by the Investigating Agency and on completion of the investigation, challan was presented only against three accused, namely, Rajpal, Deepak and Pawan, however, rest of the accused named in the FIR, were declared innocent and thus kept in column No.2. However, during the course of the trial, the complainant moved an application under Section 319 Cr.P.C. and remaining seven accused were also summoned by the learned trial Court by accepting the application filed under Section 319 Cr.P.C. However, the accused summoned under Section 319 Cr.P.C. challenged the same before this Court and their summoning under Section 319 Cr.P.C. as ordered by the learned trial Court, was stayed. The petitioners were arrested on 16.06.2021. They approached the Court of learned Sessions Judge, Palwal, praying for grant of bail and who after hearing both the sides declined the same vide order dated 09.08.2022. Aggrieved by the same, the petitioners have approached

this Court praying for grant of bail by way of filing the present petitions.

It has been vehemently contended by learned counsel for the petitioners that the petitioners have been falsely implicated in this case. They have submitted that the alleged dispute is on account of the dispute of the plot and the complainant has involved the whole family of Rajpal in this case. They submit that after investigation, allegations qua the rest of the accused were found false by the Investigating Agency and thus, challan was presented only against three of the accused. It is submitted that petitioner Deepak is nephew of Rajpal, whereas, petitioner Pawan is the son of Rajpal. It is submitted that in this case there are two injured, namely, complainant-Lacchi Ram and Mohar Pal, whereas, deceased-Kranti was the wife of the complainant. It is submitted that during the investigation, the Investigating Agency recorded statement of injured Mohar Pal under Section 161 Cr.P.C., wherein he specifically deposed that Rajpal gave lathi blow on the head of deceased Kranti, whereas, Pawan gave danda blow on the left shoulder of Mohar Pal and Deepak gave lathi blow on the waist of injured Mohar Pal. It is submitted that as per postmortem report of the deceased there is only one injury found on the parietal region and cause of death was ascertained due to shock and hemorrhage. It is submitted that there was only one injury given to the deceased, which had been attributed to Rajpal and thus, the petitioners are not the main accused. It is submitted that as per case of the prosecution, the petitioners gave injuries to the injured, which were declared simple in nature. It is submitted that the petitioners are behind the bars since 16.06.2021 and till date no witness has been examined as the application under Section 319 Cr.P.C. was filed for summoning the additional accused.

They submit that the petitioners are not the main accused as they are alleged

to have given injuries, which are found to be simple in nature. They further submit that besides the present case, the petitioner are not involved in any other case and thus, in the overall facts and circumstances, they deserve to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioners and has submitted that both the petitioners were duly named in the FIR and they played a specific role in causing the injuries. It is submitted that the petitioners were part of the unlawful assembly and thus, their complicity is duly established in committing murder of the deceased and causing injuries to the injured. He submits that though the challan was presented only against three of the accused, but the trial Court allowed the application under Section 319 Cr.P.C. filed by the complainant and seven more accused have been summoned by it and it is on account of the same, the case is pending trial so far. He submits that in all there are 15 prosecution witnesses and none has been examined and thus, no case for grant of bail is made out against the petitioners.

Heard.

Evidently, the petitioners are behind bars since 16.06.2021. Though there were 10 accused named in the FIR, however, challan was presented only against 3 of them including the petitioners. Statement of injured witness has been recorded, wherein, the witness deposed that the petitioners gave simple injuries to the injured and not to the deceased. As per postmortem report, there is only one injury found on the parietal region of the deceased, which is allegedly caused by co-accused Rajpal. There is nothing on record showing that the petitioners have any other criminal case

against them.

The veracity of the allegations would be evaluated by the trial Court only after appreciation of complete evidence to be led by both the parties before it. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioners, I am of the view that learned counsel for the petitioners have been able to make out a case for grant of regular bail to the petitioners. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petitions are allowed and the petitioners are ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

03.05.2023  
sharmila

(RAJESH BHARDWAJ)  
JUDGE

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|---------------------------|---|--------|
| Whether Speaking/Reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |