

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

CRM-M-45050-2022

DECIDED ON: 9th JANUARY, 2023

SHAMBHU LAL @ SHAMBU SARDAR

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vikram Singh Punia, Advocate
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

SANDEEP MOUDGIL, J. (ORAL)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in FIR No. 414, dated 08.12.2020, under Section 302 and 34 IPC, registered at Police Station Rai, District Sonapat.

Learned counsel for the petitioner has argued that as per prosecution itself, victim died of head injury, suffered by him as a result of fall of brick from a roof top. In this regard, he has invited the attention of the court to the different versions given by complainant before different hospitals where the patient was taken for treatment. He further submits that the complainant, who is father-in-law of the victim (Manoj), mentioned this fact in the FIR also, but attempted to explain that as he was not in senses, therefore, this variation is contained in history of assault given before the hospital authorities. It has been

asserted by learned counsel for the petitioner that the accused and the victim were known to each other being labourer working together who had a dispute over expenses of food and the alleged occurrence took place on 09.11.2020, but injured was taken to the hospital on 10.11.2020. He further asserts that though the investigation of the case is complete, but the trial is not making any headway as no prosecution witness has been examined so far. He prays for bail.

He relies upon the order dated 14.02.2022 passed in CRM-M-37104-2021 titled as *Mithun Sardar & Another vs. State of Haryana;* whereby the co-accused of the petitioner have been granted the concession of regular bail.

On the other hand, learned State counsel, has opposed the prayer, and submitted that the petitioner, along with his co-accused, had given multiple brick blows on the head of the victim and caused his death. However, it is not disputed that the charges were framed on 07.11.2021.

At this stage, learned counsel for the petitioner has argued that the post-mortem report suggests only one injury on the person of the victim, therefore, there is no question of hitting the victim by all the assailants. According to him, it is equally possible that the nature of death, which is being projected by the prosecution as homicidal, might later on proved as accidental.

After hearing the learned counsel for the parties, considering the above background and the custody of the petitioner, this court is of the opinion that the possibility of conclusion of trial in near future does not seem to be probable. Admittedly, the material witnesses are either the complainant or the police officials and at present there does not seem to be any possibility of their being won over, therefore, the further detention of the petitioner behind the

bars would not serve any useful purpose.

Resultantly, without commenting upon the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Sonapat.

9th JANUARY, 2023

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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>