

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

CRM-M-43818-2023 (O&M)

Date of decision: 11.09.2023

Rohtash @ Anchi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Satish Saini, Advocate
for the petitioner.

Mr. Harsh Vardhan Shehrawat, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 915 dated 30.07.2018, registered under Sections 148, 149, 323, 427, 506 of the IPC (Section 302 IPC added later on) at Police Station City Karnal, District Karnal.

The first petition, bearing CRM-M-24023-2019, was dismissed as withdrawn on 27.04.2021.

Learned counsel for the petitioner submits that the petitioner is in judicial custody for the last more than 05 years and the case is still at the stage of defence evidence and arguments, however, the same is being adjourned as two of the co-accused, namely Rohit and Sawan, have been declared juvenile, which is challenged before this Court and this Court has stayed the proceedings before the trial Court and now the case is fixed for 16.10.2023 awaiting the orders of this Court. Learned counsel for the

petitioner has placed on record a copy of order dated 23.08.2023, passed by the Sessions Judge, Karnal to this effect.

On merits, learned counsel for the petitioner submits that as per allegations in the FIR, which was registered at the instance of complainant Rakesh Kumar, it is stated that on 29.07.2018, he was given beatings by Rohit and Sawan and he reached back to his house and narrated the incident to his family members. When he was going to hospital for treatment with his family members, then Rohit, Anchi (petitioner herein), Sawan, Ballu and Mangal were standing in the street with sticks and iron rods. Rohit inflicted a stick blow on the head of the complainant; Sawan gave a stick blow on the arm; Anchi gave a leg blow on the chest of the complainant. When the family members of the complainant tried to rescue the complainant, the accused persons ran away.

Learned counsel for the petitioner has referred to order dated 27.02.2023, passed by the trial Court, to submit that it is observed in paragraph No. 5 that the injury on the head of the deceased, which is attributed to Rohit, was proved fatal.

Learned counsel has further referred to order dated 06.08.2022, passed by this Court in CRM-M-35274-2021, vide which, co-accused Deepak @ Ballu was granted the concession of regular bail noticing the fact that the injury attributed to him was to a witness. It is also noticed that the custody of the said accused was more than 04 years and the trial was going to take a long time.

Learned counsel submits that even in the present case, as per FIR, the petitioner was not present at the spot when the first incident took

place as it is stated that at the first instance, Rohit, Sawan and Om Parkash had given beatings to Rakesh Kumar and thereafter, he came to his house and while going to hospital for treatment along with his family members, the second incident took place, in which, five persons including petitioner were standing in the street and caused injuries to Rakesh Kumar.

It is further submitted that no motive is attributed to the petitioner as FIR itself states that the motive is attributed to main accused Rohit, who has given beatings to Rakesh Kumar on the pretext that he had committed a theft and Rakesh Kumar had given evidence against him in the Panchayat and thereafter the matter was compromised.

Learned counsel further submits that since the petitioner is in judicial custody for the last more than 05 years and also in view of the fact that the proceedings have been stayed by this Court, wherein an order declaring two co-accused is under challenge, the petitioner may be enlarged on regular bail.

Learned State counsel has filed the custody certificate, which is taken on record. As per custody certificate, the petitioner is in judicial custody for the last 05 years, 01 month and 10 days and he is not involved in any other case.

A perusal of the order dated 23.08.2023, passed by the Sessions Judge, Karnal, shows that the case is fixed for defence evidence and arguments, however, it is adjourned to 16.10.2023 awaiting the orders of this Court.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering

the aforesaid facts and circumstances, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

11.09.2023
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

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