

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

CRM-M-48197-2022 (O&M)

Date of decision: 23.01.2023

Parveen

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sanjeev Majra, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. A. G., 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. 122 dated 05.03.2021, registered under Sections 148, 149, 323, 324, 506 and 302 (added later on) of the IPC; Section 25 of the Arms Act, 1959 and Section 3(2)(v) of the SC/ST Act, 1989 (added later on) at Police Station Gharaunda, District Karnal.

The first petition, bearing CRM-M-39157-2021, was dismissed as withdrawn on 07.04.2022.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that the petitioner is in judicial custody for the last about 01 year and 10 months and till date, no prosecution witness has been examined and in the meantime, main accused Anup, who had given fatal knife blows on the back of the complainant, has been released on

bail being juvenile, vide order dated 23.07.2021 passed by the Principal Magistrate, Juvenile Justice Board, Karnal.

Learned counsel for the petitioner further submits that as per allegations in the FIR, registered at the instance of one Ajay, it is stated that his friends Anuj and Ashish were going on a motorcycle and when they reached near railway station, 5/6 boys suddenly attacked them. One of them was Anup, who tried to give knife blow to Anuj, however, the complainant caught hold of Anup's right hand and asked Anuj to run away from the spot as a day prior to the incident, Anuj had told him that Anup was extending threats to kill him but Anup gave knife blow on the back of the complainant, due to which, he fell down. Thereafter, said Anup ran towards Anuj and gave knife blows into his stomach and then all the assailants ran away from the spot. Later on, the injured persons were admitted to the hospital, however, aforesaid Anuj succumbed to the injuries sustained by him.

Learned counsel for the petitioner further submits that as per allegations in the FIR, there is no allegation of any enmity nor any motive is attributed to the petitioner, rather, it is specifically attributed to co-accused Anup, who has already been granted the concession of regular bail, being a juvenile.

Reply, filed by way of the affidavit of DSP, Gharaunda, Karnal, is on record, wherein the facts as recorded in the FIR and the investigation are detailed. In the affidavit, it is reiterated that on 04.03.2021, Anuj has informed the complainant that Anup was extending threats to him and even as per prosecution's case, it is Anup, who has given knife blows to complainant as well as deceased Anuj. In para 7 of the affidavit, it is stated

that a specific role is attributed to the petitioner as he was having a accompanying the main accused and was having common intention, however, it is stated further stated in the affidavit that the recovery of the knife was effected from co-accused Anup and the petitioner has got the place of occurrence demarcated.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the above facts and circumstances and looking into the allegations in the FIR and investigation as per aforesaid affidavit and also considering the fact that the petitioner is in judicial custody for the last about 01 year and 10 months and till date, no prosecution witness has been examined and conclusion of trial is likely to take a long time, 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.

23.01.2023

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No