

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-48227-2022

Date of Decision: 27.1.2023

Sombir

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Manjeet Singh, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.220 dated 29.11.2021 registered for the offences punishable under Sections 109, 147, 148, 149, 307, 323 IPC (Sections 109, 148 IPC deleted and Sections 302, 120-B IPC added later on) at Police Station Loharu, District Bhiwani.

The allegations in brief are that on 28.11.2021 at about 3:14 p.m., the complainant, her mother-in-law and son of her brother-in-law were changing the pipeline in their fields. In the meantime, Suresh, Akshay, Narinder @ Ninder and 10 other unidentified persons reached there and started abusing them and prevented them from doing their work and they also tried to encroach the land of the complainant. In the meantime, Suresh and Akshay asked the driver of Pik-Up bearing No.HR61-D-6128 to hit the same against the complainant party and then the said driver rammed the

vehicle against the complainant and her mother-in-law, as a result of which, her mother-in-law died.

Counsel for the petitioner *inter alia* contends that the petitioner is falsely implicated in the present case after registration of the FIR wherein he was not named. He further submits that the petitioner is in custody for the last more than 9 months and no incriminating article was recovered from his possession and that after completion of investigation, the police has presented the challan and that even as per reply filed by the State, it was co-accused Narinder @ Ninder who rammed the concerned vehicle against the complainant and her mother-in-law/Sunheri and caused injuries to them, as a result of which, mother-in-law/Sunheri died. He further submits that the petitioner is not responsible in any manner for the death of mother-in-law of the complainant and even there are no allegations that he caused any injury to the complainant at the time of the occurrence. So, prayer is made that the petitioner be released on regular bail.

Present petition is resisted by the State counsel who submits that the accused named in the FIR and some other unidentified persons constituted an unlawful assembly and the petitioner was also member of the same and some of its members caused injuries to the complainant and her mother-in-law Sunheri, as a result of which, Sunheri died.

State counsel further submits that the petitioner being member of unlawful assembly is equally responsible for the acts committed by other members of the said unlawful assembly. However, State counsel has not disputed the fact that the petitioner is in custody for the last more than 9 months and out of total 33 witnesses on behalf of the prosecution, one witness has been examined.

I have considered the submissions made by the counsel for the parties.

Admittedly, the petitioner was not named in the FIR and was later on, named as accused and is in custody since 13.4.2022. As per State counsel, at the time of occurrence, the petitioner was found to be armed with wooden stick. However, counsel for the petitioner apprised the Court that during the investigation, no incriminating article was recovered from the possession of the petitioner. Further, as per the status report filed by the State by way of affidavit of Jagat Singh, DSP, Loharu, District Bhiwani dated 17.12.2022, in the video, the complainant identified one Narinder @ Ninder as a driver of the Pik-up vehicle which hit against the complainant and her mother-in-law/Sunheri. Admittedly, the trial is not progressing ahead as till date only one witness is examined on behalf of the prosecution and in this manner, it will take considerable time for termination of the trial. Exact complicity of the petitioner will be unfolded during the trial. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

January 27, 2023
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No