

**212(2) IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

CRM-M-48569-2022

Date of Decision: 15.05.2023

Ashutosh

...Petitioner

V/S

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

DEEPAK MANCHANDA J. Oral

Third petition has been filed under Section 439 Cr.P.C. seeking regular bail in the case bearing FIR No.471 dated 21.09.2018 registered under Sections 148, 149, 323, 302, 506, 325 of the Indian Penal Code at Police Station Model Town Rewari, District Rewari Haryana.

The allegations in the FIR lodged by the complainant-Pankaj are that on 21.09.2018 at about 10.45 AM, he along with one Prajwal son of Nihal were going on foot for the purpose of getting coaching from Chankya Academy. When they reached behind Shagun Hotel, Ashutosh, Nikhil and Ankit who were armed with Bindas of kassi along with other 4/5 other boys and Lalit and Sandeep who were also armed with Binda of Kassi along with 10/12 other boys who were armed with dandas started arguing with Prajwal and in the meantime, Lalit and Sandeep along with other accomplices started giving beatings to them with their respective 'Bindas' and Ashutosh, Nikhil and Ankit along with other persons gave beatings with their respective dandas. In the said altercation, complainant Pankaj received

injuries on his hand and waist whereas Prajwal received grievous on his head and other body parts. The accused also threatened them of their life. Victim-Prajwal was shifted to Pushpanjali Hospital for treatment and got admitted there. He subsequently succumbed to those injuries, on account of which, the offence punishable under Section 302 of the IPC was added in the case.

Learned counsel for the petitioner contends that no specific injury has been attributed to the petitioner. He further contends that as per the MLR the cause of death of the victim is 'Carnio Cerebral damage consequent upon blunt force impace to the head', however, as per the statement of PW1 Complainant (Annexure P-13) no such injury has been attributed to the petitioner and the only injury attributed to him is on the hand of the complainant. Learned counsel submits that the complainant is the eye-witness to the occurrence and has already been examined by the trial Court as PW1 and CCTV footage also does not reveal any attribution to the petitioner, which was caused to the deceased. He further submits that as per post-mortem report only two injuries were caused on the person of deceased and says that the same has been caused by the mob of 20/22 boys. Learned counsel further argues that the co-accused, namely, Amit and Aman have already been granted concession of regular bail vide orders dated 21.08.2019 passed in CRM-M-14009-2019, CRM-M-12102-2019, respectively on the ground that they did not participate in the alleged incident. The other co-accused, namely, Deepak, Amit Kumar, Rohit, Vikas and Ankit have also been granted regular bail vide orders dated 19.10.2019, passed in CRM-M-37927-2019, CRM-M-37576-2019, CRM-M-38552-2019 and CRM-M-37673-2019, respectively on the ground that no injury

has been attributed to them and co-accused Sandeep has also been granted regular bail vide order dated 25.10.2021 passed in CRM-M-12069-2021 considering his long detention. Learned counsel further argues that the petitioner is in custody since 26.09.2018 where the charges have already been framed and as of now, only 13 prosecution witnesses have been examined out of total 29 witnesses. He submits that the conclusion of trial will take sufficient time, therefore, the petitioner be enlarged on bail.

On the other hand, learned State Counsel on instructions from the Investigating Officer has opposed the aforesaid prayer on the ground that the petitioner has been specifically named in the FIR, however, he does not dispute that the material witness i.e. the complainant has already been examined and no such injury leading to the death of victim has been attributed to the petitioner.

Having heard learned counsel for the parties and gone through the case file, it is significant to note that the petitioner is in custody since 26.09.2018 and the trial is at prosecution evidence stage and out of total 29 prosecution witnesses, only 13 witnesses have been examined. As the petitioner is in custody since 26.09.2018 and the material witness i.e., the complainant has already been examined as PW-1 and as per his testimony, no injury has been attributed to the petitioner causing the death of the deceased. Further, as the other co-accused, namely, Amit, Aman, Rohit, Vikas, Ankit and Sandeep have already been granted concession of regular bail on the ground that since no injury was attributed to them causing death of the deceased and in present case as per PW1-Pankaj, the only injury attributed to the petitioner is on the hand of the complainant and not to the deceased so, no useful purpose would be served by keeping the petitioner in

further incarceration.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

15.05.2023
sapna

(DEEPAK MANCHANDA)
JUDGE

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