

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

CRM-M-50766-2022 (O&M)

Reserved on: 21.03.2023

Pronounced on: 28.03.2023

Sahil Singh Bhadoriya @ Sahil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Bhaskar Upadhaya, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J.

The petitioner has filed this 2nd petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.30 dated 12.02.2021 registered under Sections 302, 452, 34 IPC, Section 3 of the SC&ST Act and Section 25 of the Arms Act, at Police Station Sector-6 Dharuhera, District Rewari.

Status report by way of affidavit dated 20.03.2023 of the Deputy Superintendent of Police, District Rewari, submitted by the learned State counsel in the Court, is taken on record.

Learned counsel for the petitioner submits that the FIR was registered on the statement of Mamta Yadav and the petitioner has falsely been involved in the present case; that there is no independent eye-witness to the alleged occurrence; that as alleged in the FIR, the complainant and her friend Neha @ Mamta Bharti (since deceased), who was working as Manager in a Company, were residing in a rented accommodation and the petitioner

and co-accused were residing at the upper floor of the said house and that on the day of occurrence, the petitioner and co-accused, who were armed with knives, trespassed into their room at about 4.45 a.m. and inflicted injuries upon the person of Neha @ Mamta Bharti (since deceased) and had also pressed the neck of the complainant.

Learned counsel for the petitioner points out that the complainant, in her examination-in-chief, stated that she did not know the names and parentage of the petitioner and co-accused and that she had verbally told her landlord about the incident of earlier quarrel between them and accused. She also stated that the petitioner and co-accused had inflicted injuries upon the person of Neha @ Mamta Bharti (since deceased) and also tried to press her neck, but somehow she had managed to free herself and locked herself inside another room of the house; that after one and half hour, the police officials reached the place of occurrence and admitted her to the hospital and that the complaint was written by the police official at the hospital.

While controverting the statement of the complainant, learned counsel for the petitioner submits that the complainant is not a reliable person, as in the complaint she had specifically mentioned the names and parentage of the petitioner and co-accused. He further submits that as per the complainant, the victim and accused persons had a quarrel a day prior to the incident and the matter was brought to the notice of the landlord, whereas the landlord while appearing as PW-5 has categorically denied the story of the complainant. It is further submitted that even as per the Investigating Officer, the complainant was never found/seen at the place of occurrence and only the

deceased had been taken to the hospital and rather the complainant herself came to the hospital after 1 ½ hour along with one male and two females, when Neha @ Mamta Bharti (since deceased) had been declared brought dead by the Doctors. Learned counsel for the petitioner would argue that the version put forth by the complainant is not believable.

Learned counsel for the petitioner also points out that the statements of PW-8 and PW-12, who were the members of the recovery team and were also present at the time of recording of disclosure statement of the accused persons, put forth different version about the occurrence, inasmuch as, according to PW-12 and PW-8, recovery was effected in the day light at about 2.30-3.30, but in the photographs, the flash light can be seen reflected in the eyes of the accused persons, which clearly shows that photographs were taken in the night. The case property was deposited on 12.02.2021.

In support of his case, learned counsel for the petitioner relies upon the judgment rendered by the Hon'ble Supreme Court in Punjab National Bank Vs. Surendra Prasad Sinha, 1992 (3) RCR (Criminal) 344 and order dated 15.02.2023 passed in Petition for Special Leave to Appeal (Crl.) No. 11714/2022 titled as 'Mukesh Kumar Vs. The State of Rajasthan & Anr.'

Still further, learned counsel for the petitioner submits that the statements of all the material witnesses have been recorded and there is no chance of hampering with the evidence by the petitioner.

Learned State counsel, while opposing the prayer for bail submits that the petitioner and co-accused were arrested on 12.02.2021 and on their disclosure statements they admitted their involvement in the crime and the weapons used in the crime and clothes were also got recovered. She

also submits that out of 23 prosecution witnesses, 15 have been examined and 05 were given up by the learned Public Prosecutor, and now the case is fixed for 01.05.2023 for prosecution evidence.

I have heard the learned counsel for the parties and have also gone through the cased file.

The present FIR was registered on the written complaint of Mamta Yadav alleging therein that victim-Neha @ Mamta Bharti (since deceased) was working as Manager in the Company. The petitioner and co-accused were also residing in a rental accommodation. A day prior to the occurrence there was a quarrel between victim and accused, as accused used to knock at the door of the victim's room at odd hours and this fact was also brought to the notice of the landlord. On the fateful day at 4.45 a.m., when the victim was getting ready to attend the office, the petitioner and co-accused entered into the room of the victim and had inflicted injuries on her person and also tried to strangle the neck of the complainant with an intention to kill both of them. The investigation report under Section 173 Cr.P.C. was presented on 07.05.2021. The prosecution witnesses examined so far, have duly supported the prosecution case.

Since there are serious allegations against the petitioner, he does not deserve the concession of bail.

In view of the above, the present petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

28.03.2023

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No