

217 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53234-2022

Date of Decision: 12th January, 2023

Vishnu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Veneet Sharma, Advocate for the petitioner.

Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This third petition is filed seeking regular bail in FIR No.50 dated 16.02.2021, under Sections 148, 149, 302, 307, 323, 324, 452, 326 and 506 IPC registered at Police Station Baldev Nagar, District Ambala,
2. Earlier two petitions were dismissed as withdrawn with liberty to revive the prayer at later stage.
3. Learned counsel for the petitioner submits that there is change in the circumstances as the similar situated co-accused-Sagar was granted bail by this court on 14th October, 2022. He claims parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned.
4. The following order was passed by this Court on 14th October, 2022:-

“Through this petition, the petitioner seeks regular bail in case FIR No.50 dated 16.02.2021, registered at Police Station Baldev Nagar, District Ambala, under Sections 148, 149, 302, 307, 323, 324, 452 and 506 IPC and Section 326 IPC (added later on).

Learned counsel for the petitioner contends that the abovenoted FIR has been got registered by complainant-Deepak @ Deepi whose brother had been murdered and as many as 08 accused have been arraigned in the present FIR,

but the fact remains that the petitioner was not armed with any weapon and that no specific injury has been attributed to him. He further contends that the petitioner has been in custody since 24.02.2021 and that of 31 prosecution witnesses, only 02 witnesses have been examined so far. On this premise, learned counsel prays that the petitioner be released on regular bail.

On the other hand, learned State counsel, assisted by the learned counsel for the complainant, while opposing the grant of bail to the petitioner, submits that owing to the parking of the motor-cycle, a fight had taken place; that the petitioner while actively participating in the occurrence, had given kick and fist blows on the person of the complainant, his brother-deceased and his father.

I have heard the learned counsel for the parties. The petitioner was not armed with any weapon. Moreover, he has been allegedly attributed only kick and fist blows on the person of the complainant, his brother-deceased and his father.

The petitioner has been in custody since 24.02.2021. Out of 31 prosecution witnesses, 29 witnesses are yet to be examined. Trial is unlikely to conclude any time soon. Therefore, no useful purpose would be served by keeping the petitioner behind the bars. Moreover, there is no other case registered or pending against the petitioner, under the aforesaid sections.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.”

5. Learned counsel for the State though opposes the prayer for grant of bail but is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned, and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

6.
- The petition is allowed.
7.
- However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(AVNEESH JHINGAN)
JUDGE

12th January, 2023
anuradha

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