

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

271

CRM-M-57504-2022 (O&M)
Date of decision: 28.02.2023

HARDEEP SAINI

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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

Mr. Vivek Chauhan, Addl. A.G. Haryana.

Mr. Piyush Aggarwal, Advocate for
Mr. Amit Sharma, Advocate
for the complainant.

VINOD S. BHARDWAJ. J. (ORAL)

CM-47669-CWP-2022

The instant application has been filed under Section 151 of the Code of Civil Procedure, 1908 seeking exemption from filing the certified copies of all the annexures as well as certified and true typed copy of the impugned order dated 07.11.2022.

Application is allowed as prayed for.

CRM-M-57504-2022

This is a second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No. 405 dated 17.09.2020 registered under Sections 148, 149, 302, 307 and 323 of the India Penal Code (Section 120-B of the IPC added later on) at Police Station Kurukshetra University, District Kurukshetra.

2. Briefly summarized the facts of the present case are that the case in hand was registered on the statement of one Harpreet son of Gurnam Singh where he had gone on 16.09.2020 to meet his friend Sandeep Kumar son of Madan Lal on his motorcycle bearing registration No. HR1AF-2238. Sandeep (since deceased) joined him when they reached at Sector-17, Kurukshetra to meet their old friends and to have some food. While they were standing there, Gagan son of Birbal, Sahil R/o Amin alongwith 5-6 unknown people came in a swift car. They also came in the car and a quarrel took place on account of an old grudge amongst the parties. The complainant alongwith Sandeep Kumar (since deceased) left the place on their motorcycle. Deceased Sandeep Kumar was sitting on the pillion of the bike. When they reached near Bhram Sarovar, Shamsher son of Raj Karan tried to stop them and that he also threw stones at them as he is friends with the other accused persons. Shamsher inform the assailants following in the car and when they reached near Balmiki Chowk, they were hit by the car coming from behind. Resultantly, Sandeep who was sitting on the pillion fell on the road and was run over by an unknown truck.

3. Counsel for the petitioner contends that the petitioner has been in custody since 15.05.2021 and that as per the investigation conducted by the respondents, the petitioner was named only in the disclosure statement of the co-accused to be driving the said vehicle. He submits that there is no evidence recovered by the Investigating Agency on the basis whereof any old enmity could be attributed to the petitioner. He further submits that the offending vehicle was recovered at the disclosure made by another co-accused Sahil. He further submits

that the case of the prosecution undisputedly is that the deceased Sandeep was run over by a truck and it is at best a case of endangering life by negligent driving and that an intention to murder cannot be deciphered from the circumstances referred above. He further contends that there are total 27 witnesses that have been cited by the prosecution and that only 03 witnesses have been examined so far. Conclusion of the trial shall take time. He further points out that the petitioner is a young boy aged 27 years of age with no other criminal antecedents and that he has already undergone an actual custody of more than 01 year and 09 months. He further contends that there are total of 05 accused in the present case and all other co-accused except for the petitioner have been enlarged on regular bail under Section 439 of the Cr. P.C.

4. Learned counsel appearing on behalf of the respondent-State however contends that the petitioner was driving the offending vehicle and hit the motorcycle on which the deceased was travelling from behind. As a result of the aforesaid impact, the deceased fell off the motorcycle and was run over. He however could not dispute the fact that the recovery of the offending car was effected at the disclosure of Sahil. There is also nothing on record to suggest that the petitioner has any other criminal antecedents and/or involved in any other criminal case.

5. Counsel for the respondent-complainant however contends that the prosecution witnesses/victims are yet to be examined and that there is every possibility of the petitioner threatening the prosecution witnesses against deposing before the Court. A pointed query was

raised as to whether any complaint of any alleged threat had been submitted to the Investigating Agency to which the counsel for the respondent-complainant contends that no such complaint has been submitted at any point prior to the said threat. Counsel for the State also submits that no such complaint about the accused threatening the prosecution witnesses has been submitted to them so far.

6. I have heard learned counsel(s) appearing on behalf of the respective parties and have gone through the record with their able assistance.

7. Taking into consideration the age of the petitioner, his clean antecedents, the fact that other co-accused having been granted regular bail, absence of recovery and also the fact that the death in question occurred as a result of the deceased being run over by a truck owing to the fall being a result of the impact of the accident, I deem it appropriate to enlarge the petitioner on bail upon the satisfaction of the Trial Court.

8. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing the requisite bail bond/surety bond upto the satisfaction of the Trial Court/Duty Magistrate concerned. In view of the apprehensions expressed by the counsel for the complainant, it is directed that the petitioner shall not try to threaten or coerce the complainant to compromise the matter or to withdraw the proceedings against him.

9. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

10. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of the material available.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 28, 2023

Vishal sharma

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