

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

CRM-M-60918-2022

Date of Decision:-18.04.2023

Harish.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Anshuman Dalal, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.306 dated 16.06.2018 under Sections 323, 324, 452, 148, 149, 307, 302, 201 IPC and Section 25 of Arms Act and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (prevention of Atrocities), 1989 registered at Police Station Sadar, Rohtak, District Rohtak, Haryana.

2. The present FIR came to be registered at the instance of Sewa Singh who stated that on 15.06.2018 at about 9.30 pm a dispute arose between his (complainant's) son Ravinder with his *Chacha*-Balwan and the matter was resolved. However, the said Balwan kept a grudge in his mind and on 16.06.2018 at about 9.00 am while he (complainant) and his son Ravinder, daughter Kavita and wife Ram Bhateri along with their younger son Parveen were present in their house, at that time his brother Balwan, Harish (petitioner) along with Brahmi wife of Balwan came into their

(complainant's) house and started abusing them. In the meantime, Harish along with his friend Sheena @ @ Sunil accompanied by 3 / 4 young boys came on motor cycles. They were all armed with knives and dandas. After entering their (complainant party's) house the accused started beating them (complainant party). Harish (petitioner) and Sheena gave blows with knives on the right side of the flank of his daughter Kavita and gave another blow on the head of his wife. Thereafter the accused fled away from the spot. Subsequently, his daughter Kavita succumbed to her injuries.

3. The Counsel for the petitioner contends that the petitioner is in custody since 4.7.2018. 10 out of 17 prosecution witnesses cited in the list of witnesses including all the material witnesses have been examined. The petitioner is a first time offender and has been attributed a simple injury on the person of Ram Batheri, wife of the complainant. Therefore, the petitioner was entitled to the grant of bail.

4. The Counsel for the State on the other hand while referring to the affidavit of Mr. Yashpal Singh, DSP, Rohtak contends that the petitioner along with his co-accused entered the house of the complainant party and caused injuries to the wife of the complainant and death of the daughter of the complainant. The nature of the allegations levelled against the petitioner did not entitle him to the grant of bail. He, however, concedes that the petitioner is the first time offender, in custody since 4.7.2018 and all the material witnesses stand examined.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner is in custody since the last more than 4-1/2 years. 10 out of the 17 prosecution witnesses stand examined including all the material witnesses. Therefore, the question of pressuring the witnesses or tampering with the evidence would not arise. Even

otherwise, the petitioner is a first time offender with no other case registered against him. As such his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Harish** son of Sh. Balwan is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from the trial without sufficient cause.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 18, 2023

Vinay

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