



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

CRM-M-1172-2024

Date of Decision:-18.07.2024

Rahul @ Johny.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Angrej Singh, Advocate for
Mr. Brijesh, Advocate for the Petitioner.

Mr. Parveen Kumar Aggarwal, Deputy Advocate General,
Haryana

JASJIT SINGH BEDI, J.(ORAL)

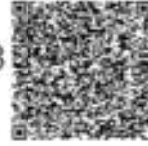
The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case bearing FIR No.40 dated 09.03.2023 under Sections 302, 323 and 34 IPC registered at P.S. Dhand, District Kaithal.

2. The present FIR came to be registered at the instance of Pardeep Kumar which reads as under:-

“ Sir, copy of the writing is to the effect that:- Statement of Pardeep Kumar son of Amrit Lal, resident of Mayoli, District Kaithal, aged 24 years, Mobile No. 7027212079. Stated that I am of the aforesaid address and parentage and labourer by profession. We are two brothers and one sister. I am married and younger to me is my brother Harish and youngest one is my sister Muskan. My brother Harish is aged 22 years, who is presently undergoing course for Hotel Management. On dated 08.03.2022, myself and my friends made a plan to celebrate 'Holi' festival and in pursuance of that plan, I and my brother Harish Kumar, my cousin brother Sandeep son of Brij Pal resident of Mayoli, my cousin brother Krishan



Kumar son of Madan Lal resident of Mayoli; my brother-in-law Deepak son of Sachin Kumar, resident of Yamuna Nagar and my friend Gurjeet Singh son of Lakhwinder Singh, resident of Hatho, District Jind, presently GhodaPulliFaral, we all while riding in the vehicle of my friend Gurjeet Singh taking eatable article and colours/Gulal etc. started to celebrate Holi in open space in Green city, Dhand located near Ishwar Singh Girls College, Dhand and in the meantime, my friend Anil son of Ram Pal, resident of Faral and Anirudh Kumar son of Shri Bhagwan all the friends enjoyed the eatables and celebrate Holi with colours/Gulal and were dancing while playing music in the vehicle of my friend Gurjeet Singh and on hearing music of of my friend Gurjeet our vehicle, four boys, who were enjoying party at some distance also came there and started dancing with us. After some time, we asked them that you may leave from here, but, those four boys did not mend and forcibly climbed up on the vehicle of my friend and started dancing, upon which my friend Gurjeet Singh put the music of his vehicle 'off' and asked those persons to leave that place, but, all those boys were insisting to play music and during that all those four persons stood in our group and then, my friend Anil Kumar got photographs of we all clicked with his mobile phone from a passer-by and after that, of us, Anil, Krishan Kumar, Sandeep, Anirudh and Gurjeet, driver of the vehicle, sat inside our vehicle and myself and my brother Harish Kumar and my brother-in-law Deepak Kumar were standing outside the vehicle. All those four persons were addressing themselves with the names of Anil, Rahul, Ravi alias Golu and Rohit, residents of Dhand, who were asking my brother Harish to play 'holi' forcibly, upon which my brother Harish stated that now it is already 6:30 PM (evening) and we have to leave for house and on this, all those four persons started quarrelling with my brother and when myself and my brother-in-law were resisting them not to do the boy in the name of Anil, with an intent to kill my brother Harish, picked up a brick lying nearby and gave blow thereof on his head and soon after hitting of brick on head, my brother Harish Kumar fell down on the road and all those four fled away from there. Consequent upon fall on ground of my brother Harish blood oozed out from his nose and he went in unconscious state, whom we took to Anand Hospital, Kurukshetra in our vehicle, where, doctor after giving first-aid, referred him to PGI, Chandigarh and after that since condition of



my brother was deteriorated, we brought my brother Harish Kumar for treatment to civil hospital, Kaithal, where my brother is undergoing treatment. It is requested that stern legal action against the aforesaid persons who have caused injuries to my brother without any cause may be initiated. I have got my statement recorded with you, read over and it is correct. Sd/- Pardeep."

3. The Counsel for the petitioner contends that petitioner has been falsely implicated in the present case. A bare perusal of the FIR would reveal that the occurrence took place while both the parties were celebrating the Holi festival. There was no prior enmity between the parties. The fatal injury had been caused by Anil one of the 04 individuals from the accused party. So far as the present petitioner is concerned, he is stated to have been standing at the spot and no overt act had been attributed to him. It was only later during the course of investigation that the allegations had been levelled against the petitioner Rahul of holding the deceased while Anil launched the attack. Be that as it may, taking the allegations to be correct, it would be a case of Section 304 IPC and Section 34 IPC would not be applicable. As the petitioner was a first time offender, in custody since 14.03.2023 but none of the 28 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

4. The Counsel for the State, on the other hand while referring to the reply dated 18.03.2024 contends that the petitioner was present at the spot when Anil Kumar caused a fatal injury on the person of the deceased. In fact during the course of the investigation it has been stated that the petitioner along with his co-accused had caught hold of the deceased and had given him kick, slap and punch blows while co-accused had struck head of the deceased with a brick. Therefore, the role of the petitioner did not



entitle him to the concession as prayed for. He however concedes that the petitioner is a first time offender, in custody since 14.03.2023 and none of the 28 Pws have been examined so far.

5. I have heard the learned counsel for the parties.
6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first time offender, in custody since 14.03.2023 but none of the 28 Pws have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, his further incarceration is not required.
7. Thus, without commenting upon the merits of the case, the present petitions are allowed and the petitioner-**Rahul @ Johnny** son of Sh. Mulkhraj is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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 Trial without sufficient cause.
9. This petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 18, 2024
Vinay

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