

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

Date of Decision:-19-04-2024

CRM-M-3838-2024

Aman Rasler.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Sahil Choudhary, Advocate for the Petitioner.

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

JASJIT SINGH BEDI, J.

The prayer in this second petition under Section 439 Cr.PC is for grant of regular bail in case FIR No.750 dated 11.09.2021 under Sections 302, 120-B, 201 IPC registered at Police Station City Yamuna Nagar, District Yamunanagar.

2. The instant FIR came to be registered at the instance of Shivali Sharma who stated that he had younger brother by the name of Surya. A Ganesh Utsav was organized every year on behalf of the Surya Club and even that year a Pandal was to be set up near the gate of Guru Gobind Singh Institute. On 10.09.2021 he (complainant), his brother Surya and younger brother Krishna @ Boxer were showing the location where the tent was to be put up for the Ganesh Utsav to the tent man. In the meantime, 5/ 7 motor cycles with 2/3 persons on each motor cycle totalling about 15/20 boys came to the spot with swords, iron rods wrapped around with barbed wire and

empty glass bottles. All the accused attacked his brother Surya with their respective weapons. He (complainant) and his younger brother Krishna @ Boxer hid there in order to save their lives. Out of the boys who were beating Surya, he (complainant) had identified Akshit Garg, Shanky, Shiva, Ashu Pagwal, Ganni Mehra, Nitin Mehra Parvej and Shahrukh. He could identify the other boys, if they came in front of him. Harsh and Akshit gave sword blows on the head of Surya whereas Ashu Gujjar, Ganni Mehra, Nitin Mehra, Shanky, Shiva, Parvej and Shahrukh caused injuries on the head, legs, arms and hands of Surya with iron rods wrapped with barbed wire. Other boys gave blows with glass bottles on the head and face of Surya. The injuries subsequently had led to the death of Surya at PGI, Chandigarh where he had been referred from Civil Hospital, Yamuna Nagar. The motive was that Surya had got registered a case against Manish Ganje, Nitin Mehra etc., and they had been pressurising Surya for giving an affidavit of their innocence.

Pursuant to the registration of the FIR the investigation began and the call detail records of a number of mobile phones were collected. Moni @ Ashu, Arjun @ Harsh and Parveen @ Ritik were apprehended and a motor cycle make Splendor was recovered from them.

On 15.09.2021 the aforementioned accused disclosed the name of the Tarun. During investigation, iron rods/pipes and a wooden danda used in the commission of the offence were recovered and the CCTV footage was obtained. Moni @ Ashu, Arjun @ Harsh and Parveen @ Ritik disclosed that on the date of occurrence Arjun @ Harsh had received a call from Aman Rasler (petitioner) on mobile no.8397965440 from mobile no.7988835532 that the deceased was standing at a particular place. Later the accused committed the offence and made a call to Aman Rasler inform

him that the murder had been committed.

The report under Section 173(2) Cr.PC was submitted against Tarun, Moni @ Ashu, Arjun @ Harsh, Parveen @ Ritik, Sagar, Shanky Pal, Gaurav Pal and Akshit Garg.

During the investigation, Tarun and Moni @ Ashu were found to be Juvenile and therefore, separate challans were filed against them before the Juvenile Justice Board, Yamuna Nagar. However, after conducting of a preliminary assessment with regard to the mental and physical capacity and their ability to understand the consequences of an offence and circumstances of the case, an order was passed under Section 18(3) of the Juvenile Justice Act to the effect that there was a need of the trial of the Tarun and Moni @ Ashu as adults. Therefore, their case was committed to the Court of Sessions.

3. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR but has been named in the disclosure statement of his co-accused Moni @ Ashu and others. Even as per the said disclosure statement the petitioner is stated to have conducted a recce of the deceased. No injury had been attributed to the petitioner. Co-accused Tarun Kumar had been granted the concession of bail. As the petitioner was in custody since 08.08.2022 but only 07 of the 37 Pws 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 learned counsel for the State has filed a reply dated 15.04.2024 by way of affidavit of Mr. Rajesh Kumar, HPS, DSP, Yamuna Nagar-II in court today, which is taken on record. While referring to the said reply he contends that as per the investigation conducted it was the petitioner

who had directed the other accused towards the deceased. Pursuant to the commission of the offence the accused made a telephonic call to the petitioner informing him of the deed which had been done. Therefore, in a sense, the petitioner was the main accused. Co-accused Tarun Kumar had been granted the concession of bail primarily on account of the fact that he was a juvenile. In fact another accused Gaurav Pal had sought the concession of bail and the said petition came to be withdrawn on 20.03.2024. Therefore, in view of the allegations against the petitioner, he was not entitled to the concession of bail.

5. I have heard the learned counsel for the parties.
6. As per the case of the prosecution, it was the petitioner who informed the actual assailants as to the whereabouts of the deceased through a telephonic call. Pursuant thereto, after the offence had been committed, the accused persons made a call to the petitioner informing him that they had committed the murder of Surya. Therefore, it is apparent that the petitioner is one of the main accused. The case of the co-accused Tarun Kumar is distinguishable on fact as he is a juvenile. Further, the bail application of one Gaurav Pal came to be withdrawn as recently as on 20.03.2024.
7. In view of the above, I find no merit in the present petition and the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

April 19, 2024
Vinay

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