

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

CRM-M-7864-2024(O&M)

Date of Decision:-10.04.2024

Vikrant.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Aditya Sanghi, Advocate for the Petitioner.

Mr. Rajiv Goel, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this second petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.140 dated 07.06.2020 under Sections 302, 34, 120-B, 115 IPC registered at Police Station Kosli, District Rewari, Haryana.

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

“ To, The SHO, Police Station Kosli. Sir, it is submitted that I, Gaurav Kumar son of Surender Singh, resident of Village Dumna and my uncle's (Tau's) son Sandeep son of Mahipal, resident of Dumna, Police Station Kosli, District Rewari, weze sitting outside our house. At around 4 O'clock in the evening, Sunita wife of Satyanarayan, resident of Dumna told us that "Satender son of Ishwar Singh, Vikrant son of Kanwarpal, Ishwar Singh son of Duli Chand, Tilak son of Vinay Singh, residents of Dumna are quarreling with

your cousin brother Sudhir alias Situ son of Sunil Kumar, in the 'Banni' near the ground which is adjacent to the Ashram. After getting this information, when I and my uncle's son Sandeep reached near the ground adjacent to the Ashram, we saw that by tying Sudhir alias Situ's hand to the kikkar tree, Satender & Vikrant, Ishwar Singh with an axe in their hands, and Tilak with rod in his hand, were causing injuries on both the hands of Sudhir. We saw them with our eyes and after seeing them, we made a noise, and then they all ran away from the spot with their weapons towards 'Banni Side. Thereafter, keeping in view the serious condition of Sudhir, we informed about this incident to our family and opened Sudhir from the tree and then by arranging the vehicle, brought him to the Government Hospital Rewari and.. admitted him there for treatment. Seeing his condition worsening, the doctor referred Sudhir to the Higher Center PGIMS Rohtak for treatment. When we were taking Sudhir to Gurugram for treatment, Sudhir died on the way, due to the injury sustained in the quarrel. The dead body of deceased Sudhir has been kept in Mortuary. Rewari. These injuries have been inflicted with the intention of killing Sudhir. And Parvinder son of Sh. Jai Bhagwan, earlier also, had given threat to kill and to get killed, many times. My brother died due to- injuries sustained the quarrel. Therefore, it is requested to you to kindly initiate strict action against all of them and justice may kindly be imparted to my, deceased brother, Sudhir. Thanking you.' Sd/- Gaurav."

3. The Counsel for the petitioner contends that a perusal of the FIR as well as testimony of the complainant PW-1 would clearly indicate that no specific injury has been attributed to the petitioner. The post mortem report of the deceased Sudhir would also show that all the injuries suffered by him were on non vital parts of the body and as such, it would be a matter of adjudication during the course of the Trial as to whether the offence under Section 302 IPC was made out or conviction was to be recorded under

Section 304 IPC. An identically situated co-accused namely Satender had been granted the concession of bail by this Court vide order dated 23.1.2024 (Annexure P-7). As the petitioner was a first time offender, in custody since 11.06.2020 but only 11 out of the 33 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and, therefore, the petitioner was entitled to the concession of bail.

4. The Counsel for the State on the other hand contends that the petitioner along with his co-accused brutally assaulted the deceased leading to his death. *Prima facie* the offence was clearly one of murder as envisaged under Section 302 IPC. Therefore, the petitioner was not entitled to the concession of bail. He however, concedes that the petitioner was a first time offender, in custody since 11.06.2020, that only 11 out of 33 prosecution witnesses had been examined so far and that the co-accuse Satender had been granted the concession of bail.

5. I have heard learned Counsel for both the parties at length.

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 11.06.2020 but only 11 out of the 33 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required, more so when his co-accused had already been granted the concession of bail.

8. Thus, without commenting on the merits of the case, the petitioner-**Vikrant** son of Sh. Kanwar Pal is ordered to be released on bail subject to their satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.
10. In addition, 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 in accordance with law in case of the absence of the petitioner from the Trial without sufficient cause.
11. The Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 10, 2024
Vinay

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