

CRM-M-14052-2024

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-14052-2024 (O&M)
Date of Decision: 22.03.2024

AMIT @ MITI

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashish Rana, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The present first petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.423 dated 12.12.2022 under Sections 147/148/149/323/379-B/427/452/506 of Indian Penal Code (Sections 324/302/307/325/120-B and Section 25 of Arms Act added later on) registered at Police Station Bhuna, District Fatehabad, Haryana.
2. The present FIR was lodged on the statement of Garib Dass on the allegations that in the family of complainant, one Ramdas father of Manoj was expired and all were sitting at his home after the death of Ramdas and in the meanwhile, one, Kanshi Ram came on the kirana shop of complainant for getting the bundal of biddi then Shivam grandson of the complainant was sitting in the street due to death which has occurred in their family. Therefore, biddi cannot be sold, then due to that talk, Kanshi slapped on the face of Shivam and after some time, called 30-40 persons on spot who attacked through bricks and stones on their houses. Knife blow was given on the stomach of Mukesh son of the complainant, brick blow was given in the head of Ravi, serious injuries were caused on the finger and thumb of

Ramesh and entire belongings in the house were broken. It is further alleged that they had also snatched the gold chain from the neck of Mukesh.

3. Learned counsel for the petitioner *inter alia* submits that identically placed co-accused namely Ram Niwas, Sanjay, Vakil @Gokal, Deepak and Sahil @ Pohla have already been granted regular bail by this Court vide orders dated 29.11.2023 (Annexure P-3), 05.12.2023 (Annexure P-4), 25.01.2024 (Annexure P-5) and 15.02.2024 (Annexure P-6) respectively. The petitioner has been nominated in the FIR(supra) on the basis of disclosure statement suffered by co-accused, while in police custody, which has no evidentiary value in the eyes of law. The injury attracting the offence under Section 302 of Indian Penal Code is specifically attributed to the co-accused Sandeep @ Bachi. Moreover, the cause of death according to the post-mortem report is respiratory failure and it would be a moot point to be determined by the learned trial Court as to whether the cause of death is a result of the injuries or not.

4. Per contra, learned State counsel on instructions from ASI Sukhwinder Singh, opposes the prayer for grant of regular bail to the petitioner on the ground that he being the member of unlawful assembly, has actively participated in the alleged occurrence. Custody certificate filed by the respondent-State is taken on record.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 15.12.2022 and has undergone the custody of 01 year 03 months and 05 days and is not involved in any other case. The Investigating Agency has already concluded the investigation and submitted the final report under Section 173 Cr.P.C. on 12.03.2023 and trial of the case has not commenced

CRM-M-14052-2024

as none of the prosecution witnesses have been examined so far. Similarly situated co-accused namely Ram Niwas, Sanjay, Vakil @Gokal, Deepak and Sahil @ Pohla have already been granted regular bail by this Court vide orders dated 29.11.2023 (Annexure P-3), 05.12.2023 (Annexure P-4), 25.01.2024 (Annexure P-5) and 15.02.2024 (Annexure P-6) respectively. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner.

6. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Amit @ Miti is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

22.03.2024

Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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