

CRM-M-20450-2023 (O & M) ::1:-

(233) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20450-2023 (O & M)
Date of Decision: 06.02.2024

Vijay Pal
... Petitioner

Versus

State of Haryana
...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Shikhar Goel, Advocate,
and Mr. Abhimanyu Jangra, Advocate,
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail to the petitioner in case bearing FIR No.430 dated 31.10.2020 under Sections 302, 201 and 34 IPC registered at Police Station Sadar Ballabgarh, District Faridabad.

2. The present FIR came to be registered at the instance of Chandarpal son of Chunnilal and reads as under:-

“To SHO, Ballabhgarh Police Station. Respected Sir, It is stated that I, Chandarpal S/O Chunnilal, am resident of village Machagar and has retired as Subedar from Indian Army and now I do agricultural work. I've three children, one is a daughter and other two are sons. The daughter is married and elder son is Bhushan and younger son is

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Akshay. Both of them are unmarried. Around 5-6 years ago, Rahul and Arun Pratap son of Ajaib Singh, who are my nephews in relation, had attacked my son Akshay and a bullet was shot in Akshay's eyes. And for the same we filed FIR against them in Ballabgarh Sadar Police Station where the court found Rahul and Arun Pratap guilty and were convicted with imprisonment of 7 years who at present are out on bail from the High Court. On 25/5/2020, Sauraj s/o Hukam Singh, who is my uncle's son in relation, with whom Akshay had a fight. Deepak S/o Sauraj had filed a case in that regards in which my son Akshay is out on bail. Rahul, Arun Pratap s/o Ajab Singh, Deepak s/o Sauraj and Hempal s/o Satpal used to keep enmity regarding this and used to say that you made us face sentence and broke Sauraj's leg by hitting him, we will take revenge for this. Later, on 30/10/2020, my son Akshay did not come home even till 10:20 pm, so I called from my phone no. 9971458376 to Akshay's phone no. 9643770102. Akshay said I am coming but he did not come for half an hour so I went searching for him towards pond to find him and when I reached near the transformer I saw that Rahul, Arun Pratap s/o Ajab Singh, Deepak s/o Sauraj, Hempal s/o Satpal, Vijay Pal s/o Hukam Singh and Akash s/o Vijaypal, all the residents of Machagar were beating my son Akshay badly with bricks and stones. When I raised an alarm, my nephew Robin S/o Shyam Sundar also came there. Meanwhile, all the above-mentioned left the boy lying on the ground. When I saw my son Akshay, his head was torn and he was lying unconscious with blood-soaked body. His hands, legs and body were injured. Robin and I took him to Sarvodaya Hospital for treatment where the

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doctors declared my son Akshay dead after checking. All the culprits have killed my son Akshay by hitting him on the head and body with bricks, sticks and stones keeping a grudge to get them punished from the court/Legal action should be taken against them. Dated 31.10.2020 Sd Chanderpal”.

3. The learned counsel for the petitioner contends that the prosecution case is unbelievable. In fact, the complainant is not an eye-witness to the occurrence but came to the spot later. There was family rivalry between the parties and the false implication of the petitioner cannot be ruled out. Though, stones, bricks and sticks were said to have been used in causing the death of the deceased, nothing was found at the spot in the morning. During the course of his deposition, the complainant had significantly improved his case from that in the FIR including changing the nature of the murder weapon. As the petitioner was in custody since 01.12.2020 and the Trial had not made any progress, he was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, has filed a reply dated 02.02.2024 which is take on record. While referring to the said reply, he contends that the offence stands established beyond reasonable doubt. The deceased had received as many as 13 injuries on his person caused by the petitioner who is duly named in the FIR alongwith certain other accused. The said injuries have been opined to be sufficient to cause the death of the deceased. The improvements, if any, are minor and in any case, would be appreciated at the time of final adjudication. As many as 09 out of the 21 prosecution witnesses stand examined and therefore, the Trial had

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made sufficient progress. He, therefore, contends that that as the petitioner was one of the main accused and had committed a heinous offence, he was not entitled to the concession of bail.

5. I have heard the learned counsel for the parties.
6. A perusal of the FIR would reveal that the petitioner alongwith his co-accused caused multiple injuries on the person of Akshay (deceased) with bricks, stones and sticks. The post-mortem has revealed the following injuries:-

Sr. No.	Injuries	Marked	Injury Number
1	1. A LACERATED WOUND AT CENTER OF FOREHEAD OF SIZE 1CM X1CM 2. A LACERATED WOUND OVER FRONTAL REGION OF SCALP OF SIZE 6CM X1CM 3. A LACERATED WOUND OVER RIGHT PARIETAL REGION OF SCALP OF SIZE 7CM X1CM 4.A LACERATED WOUND OVER RIGHT OCCIPITAL REGION OF SCALP OF SIZE 5CM X 2CM 5. COMPOUND FRACTURE FRONTAL BONE OF SKULL 6.FRACTURE RIGHT PARIETAL BONE OF SKULL 7. FRACTURE RIGHT OCCIPITAL BONE OF SKULL 8. MULTIPLE ABRASION OF VARIOUS SIZES PRESENT OVER RIGHT ARM, B/L HANDS 9. MULTIPLE ABRASION OF VARIOUS SIZES PRESENT OVER RIGHT HIP AND RIGHT LEG 10. A LACERATED WOUND OF SIZE 5CM X 1CM OVER RIGHT LEG 11. MULTIPLE ABRASION OF VARIOUS SIZES PRESENT OVER ALL OVER BACK 12. MULTIPLE ABRASION OF VARIOUS SIZES PRESENT OVER LEFT SIDE OF UPPER CHEST 13.FRACTURE LOWER END OF BOTH BONES OF RIGHT LEG.	No	1

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The opinion on the cause of death is as under:-

“In opinion of the Board the cause of death in this case is Shock and Hemorrhage due to injuries to vital organs i.e. Brain which are as described in PMR Report and are Antemortem in nature and are sufficient to cause death in ordinary course of nature”.

7. The improvements, if any, made by the complainant in his statement in Court shall be appreciated at the time of final adjudication. As many as 09 out of the 21 prosecution witnesses already stand examined and therefore, the Trial has made sufficient progress.

8. In view of the above discussion, I do not deem it appropriate to grant the concession of bail to the petitioner. Therefore, the present petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

February 06, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No