

CRM-M-26071-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26071-2024
Reserved on: 08.11.2024
Pronounced on: 26.11.2024

Akash Kumar @ Guddu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Dhruv Gupta, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

Mr. Kapish Singla, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
50	16.02.2021	Baldev Nagar, District Ambala	148, 149, 302, 307, 323, 324, 452, 506 IPC(Section 326 IPC added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, seeking regular bail.
2. As per custody certificate dated 24.08.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	601	2018	323, 325, 34 IPC	Baldev Nagar, Ambala
2	387	2019	323, 324, 307, 506 IPC	Baldev Nagar Ambala

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That the brief facts of the case are that on 16.02.2021, after receiving a telephonic information from police post, Ambala City, then Inspector/SHO, PS Baldev Nagar alongwith other police officials reached at Civil Hospital, Ambala City and obtained 'Rukka' of Arun Kumar S/o Naresh Kumar and Naresh Kumar S/o Krishan Chand. Investigating officer also obtained MLR report of Naresh Kumar bearing MLR No. DD/34/2021/AMB dated 16.02.2021 in which doctor shown one Sharp injury in chest and also advised X- ray. Deepak Kumar @ Deepi

CRM-M-26071-2024

(complainant) S/o Naresh Kumar R/o H. No. 1266, Goverdhan Nagar, District Ambala met with the investigating officer and got recorded his statement about the incident and stated that "on 16.02.2021, at about 06:30/7:00 in the evening, he was returning his home with his mother Sudha Rani after getting her medicine from Kurukshetra and after reaching Gowardhan Nagar, in the way, Rishi S/o Subhash and Rajender S/o Tek Chand were feeding the pigs in the street and he said to them that today parked their vehicle in the side of the street, both of them started abusing with him and threatened him to face dare consequences that they would not spare him to see the present day. Thereafter, he requested them with the folded hands that such type of words may not be used in the presence of his mother. His father come out from the car and with the folded hands said to them that they were raising dispute without any reason and then his father sent him and his mother Sudha to home. After sometime, his father returned home and after some time 8-10 boys armed with sword, Danda's and other weapons attacked upon his home and in that boys, Rishi, Lucky, Rimpi sons of Subhash, Rajinder S/o Tek Chand, Aaku S/o Rajinder, Sagar S/o Rajinder, Vishnu, Sagar both sons of Dharampal, Akash S/o Raju residents of Governdhan Nagar, Ambala City were present, out of whom Rishi had knife (Churri) and he gave one knife blow on the neck of his brother and second knife blow on the chest of his brother. Lucky who was holding sword, hit sword blow on the left rib of his brother and Rimpy with Axe like weapon hit blow on left side of Head of his brother and Rajinder gave kick blow on testicles of his brother. His father also suffered injuries by knife and all three brothers and Rajinder caused injuries to his father with knife, Churri and sword. When he (Deepak complainant) tried to save them, Akash S/o Raju (accused-petitioner) attacked upon him with the 'Gandasa like weapon due to which he suffered injury on left of his Arm. Aaku S/o Rajinder, Sagar S/o Rajinder, Vishnu, Sagar both sons of Dharampal have also given merciless beatings to him, his brother and his father. Rubi Sauda while holding Danda in her hand came to the spot and gave merciless beating and said that now she has become a M.C. and she will teach them a lesson by throwing them out of the Mohalla. He also got recorded that all these things has been done in a pre-planned manner and they all attacked on their house and caused injuries to him, his father and his brother Arun @ Annu due to that his brother has been killed."

On the statement of complainant Deepak and on the basis of MLR report, a case FIR No. 50 dated 16.02.2021 U/s 148/149/323/324/307/302/452/506 of IPC, Police Station, Baldev Nagar, Ambala City was initially registered for further investigation of the case."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

"13. That on the same day i.e. 12.03.2021, during the course of

CRM-M-26071-2024

investigation of the case, vide moving separate application before the concerned medical officer for sought his opinion regarding the possibility of injuries sustained to Deepak @ Deepi by the A recovered weapon from accused/present petitioner as in MLR No.N.MP/31/2021/Amb. dated 16.02.2021 two injuries were shown as A 'blunt', upon which, the doctor opined as under:-

"In my opinion the two injuries mentioned in the MLR No.N.MP/31/2021/AMB dated 16.02.2021, the possibility of those injuries caused by the handle of the weapon cannot be ruled out."

7. A cumulative reading of para 3 and 13 of the reply quoted above reveals the petitioner's participation in crime. Thus, the petitioner is not entitled to bail on merits. Regarding bail on parity with co-accused Akash (CRM-M-51090-2022), the said accused got bail on parity with CRM-M-13175-2022. Since specific injury is attributed to the petitioner, he is not entitled to bail even on parity.

8. A perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

9. The petitioner's custody of around 3 ½ years cannot be termed prolonged, given the sentence prescribed for the offense, which is imprisonment for life.

10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

11. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

26.11.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.