



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-24798-2024 (O&M)
Date of decision: November 27th, 2024

Madhukar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vinod Ghai, Senior Advocate
with Mr. Arnav Ghai and Ms. Kashish Sahni, Advocates
for the petitioner.

Mr. Rahul Mohan, Senior Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-40421-2024

Prayer in this application is for placing on record true
photocopy of deposition of PW-1 Yash Kumar as Annexure P-5 and for
exemption from filing certified/typed copy of the same.

Application is allowed subject to just exceptions.

Annexure P-5 is taken on record.

Exemption, as prayed for, is granted.

CRM-M-24798-2024

Petitioner is seeking the concession of regular bail in
FIR No.532 dated 29.09.2023 under Sections 147, 148, 149, 323, 325,
506, 307 and 302 of the IPC registered at Police Station Kotwali,
District Faridabad.

2. Learned senior counsel for the petitioner submits that the petitioner has been in custody since 02.10.2023 in a case based on eyewitness account of PW-1 Yash Kumar. While drawing the attention of this Court to the deposition of PW-1 Yash Kumar, it has been submitted that while stepping into the witness box, the said witness had not identified the petitioner, as a result of which he was declared hostile. Learned senior counsel has asserted that in the aforementioned facts and circumstances, it is evident that the petitioner has been falsely implicated in the present case and furthermore, since he is the sole material witness in the instant case, petitioner's further incarceration would serve no useful purpose as 23 witnesses still remain to be examined.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed the submissions made by the counsel opposite that the sole material witness in the present case i.e. PW-1 Yash Kumar has since been examined before the trial Court and had not supported the case of the prosecution leading to him being declared hostile. However, learned State counsel has drawn the attention of this Court to the allegations levelled in the FIR, which stands reproduced hereinunder:

"To, The Police post Incharge, Town-2, Faridabad, Sir, 1, Vipin Mahndiratta S/o Sukhdev Mahndiratta, am resident of H. No. 1574, Jawahar colony, N.I.T, Faridabad. I have a son whose name is Daksh Mehndiratta who studies in 11th class in Vidhya Niketan School and he goes to tuition in NIT-2. Yesterday on 28.09.2023 at 08.30/08.45 PM my wife called and informed me that Daksh was beaten up by 10/12 boys near Vidhya Niketan School No. 2, they taken to Daksh in Escort Fortis Hospital, you quickly go to Escort Hospital. After receiving the

information, I reached Escort Fortis Hospital where there was a huge crowd of people and one of them Yash son of Sandeep resident of IH.No. 1556 Jawahar Colony NIT Faridabad who was with my son Dakals at the time of fight told that Daksh was benten by Chinu son of Anil Ghodiwala village Saran and Harman son of Raju, R/o Janta Colony Faridabad and Shivam son of Sonu Saran R/o village Saran Faridabad and Madhukar Son Amit, resident of Jawahab Colony, Faridabad and Sharvan, resident of village Saran and other 7/8 boys, armed with sticks and Dandas, caused serious injuries to Daksh, who when the people nearby heard the sound of the fight and came there, then the accused boys fled away from the spot and left Daksh in an injured state and accused boys threatened to kill and said that if he meet him again, they will kill him. These accused boys caused serious injuries to Daksh with sticks and Dandas and kick and punch, it is requested that appropriate legal action be taken against accused persons.”

4. It has been submitted that although, the complainant (father of the deceased) was not a witness to the occurrence in question, however, he had been informed by PW-1 Yash Kumar about the murder of the deceased having been committed by the petitioner and others. Learned State counsel, on further instructions, has not disputed the custody period of petitioner as well as the stage of trial.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The sole material witness in the present case already stands examined and did not support the case of the prosecution, therefore, there can be no apprehension of the petitioner intimidating/influencing any of the witnesses. The trial is unlikely to conclude in the near future as 23 prosecution witnesses still remain to be examined.

7. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

8. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

November 27th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No