

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28658-2023

Date of Decision:31.01.2024

Arun alias Kaku alias Arun Sarsar

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S. Shekhawat**Present :** Mr. Amit Choudhary, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.284 dated 24.05.2022 registered under Sections 302, 323, 324, 341, 506 and 34 of IPC, at Police Station City Fatehabad, District Fatehabad.
2. The FIR in the present case was registered on the basis of the statement made by Naveen Kumar and the same has been reproduced as under:-

“Statement of Naveen Goswami son of Arjundev son of Goswami Jagdish Giri resident of ward No.4, Ramniwas Mohalla, Fatehabad aged about 42 years mobile Number 94666-42586 stated that "I am resident of above-mentioned address. I and my brother Yogesh Goswami are doing manufacturing work of Almirah, Cooler and boxes. Our factory is in the name and style of Shiv Steel located behind Manjhu Petrol Pump. We are two brothers, both are married, our whole family is living together with parents in one house in the

Ramniwas Mohalla. Sidharth @ Sunny aged about 21 years is son of my elder brother Yogesh Goswami. Yesterday i.e. on 23.05.2022 at about 10.00 pm, he was coming to home from market and when he reached at the turn of street near the house, where Gulshan @ Kannu, Arun @ Kaku sons of Vinod @ Vinodi, Vinod @ Vinodison of Manohar Lal resident of Ramniwas Mohalla Fatehabad were standing. Sidharth@ sunny had an altercation with Gulshan @ Kannu, who gave a brick blow on his back. Sidharth @ Sunny ran away to home and he informed about the giving of brick blow. I and my brother Yogesh Goswami, Sister in law Poonam and Sidharth @Sunny were going to the house of Gulshan @ Kannu to know about the reason of giving brick blow and went to complaint there. Then in the street Gulshan @ Kannu, Arun @ Kaku sons of Vinod @ Vinodi, Vinod @ Vinod son of Manohar Lal and Dhannat wife of Manohar Lal resident of Ramniwas Mohalla, Fatehabad were standing there. As we asked Gulshan @ Kannu regarding the reason for brick blow to Sidharth @ Sunny, then all the four surrounded us and started beating. They were carrying wooden sticks in their hand and Gulshan @kannu ran inside the house and brought someweapon like knife from the house, Vinod @Vinodi caught hold of my brother Arun @ Kaku, caught hold of me and my nephew Sidharth @ sunny and Dhannat caught hold of my sister in law Poonam and Gulshan @ Kannu started giving blow to my brother Yogesh Goswami and on all of us with weapon like knife. Gulshan @ Kannu, who was carrying weapon like knife (chura) in his hands, gave injury on the right side below the chest and on the left hand, gave injury on the wrist of right hand and thumb of my nephew Sidharth @ Sunny, and also gave injuries on the wrist of right hand and finger of left hand of my sister in law Poonam and also gave injuries to my brother Yogesh Goswami below on the right side of his chest and on the head with the weapon like knife (Churi). We tried to save

ourselves and made hue and cry, then my father Arjun Dev and several peoples came at the spot. On seeing them, they all four ran away from the spot with their respective weapons giving threats to kill. The grudge is that Gulshan @ Kannu have asked my Nephew Sidharth @ Sunny for the motorcycle and asked him to drop somewhere, but Sidharth @ sunny had refused and at that time other neighbors came, who after arranging the private vehicles, got us admitted in Civil Hospital, Fatehabad. That my brother Yogesh Goswami had received serious injuries and after reaching the hospital doctor declared him brought dead. Gulshan @ Kannu, Arun @ Kakku sons of Vinod @ Vinodi, Vinod @ Vinodi Son of Mahohar Lal, Dhannat wife of Manohar Lal, due to the small issue, had in conspiracy with each other without any reason caught hold us and gave injuries, while making complaint and had given injuries with weapon like knife (churi) and had done act against the law, due to which my brother died. Strict legal action be taken against them. Doctor saw the MLR report of my brother Yogesh Goswami, where we came to know that the name of my father is written as Rajinder Goswami instead of Arjun Dev. Statement has been recorded. Heard, written, which is correct. Sd/-Naveen Goswami son of Arjun Dev resident of ward No. 4, Ramniwas Mohalla, Fatehabad.”

3. Learned counsel for the petitioner contends that the petitioner was initially named in the FIR, but no specific role was assigned to him. He further contends that as per story of the prosecution, it was alleged that the petitioner had caught hold of Naveen, complainant and thereafter, the other accused had allegedly caused injuries to him. He further contends that no injury to Yogesh Goswami, since deceased has been attributed to the present petitioner. He further contends that the petitioner was arrested in the present case on 24.05.2022 and is in custody for the last more than 01 year and 06 months.

Learned counsel further contends that the petitioner has no criminal antecedents and deserves the concession of bail by this Court.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner had actively participated in the commission of crime and has been specifically named in the FIR. However, she is not in a position to controvert the factual submissions made by learned counsel for the petitioner. She further contends that only 4 witnesses, out of total 21 witnesses, have been examined so far.

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

6. The petitioner is in custody since 24.05.2022 i.e. about 01 years and 06 months. As per case of the prosecution, only role attributed to the present petitioner is that he had caught hold of Naveen, complainant and no injury to Yogesh Goswami, deceased, has been attributed to the present petitioner. Apart from that, the present petitioner was not involved in any other case. Further, the prosecution has only examined 4 witnesses, out of total 21 witnesses, so far and the conclusion of the trial may take quite a long time and further custody of the petitioner will not serve any meaningful purpose.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

(N.S.SHEKHAWAT)
JUDGE

31.01.2024
hemlata

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