

In The High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-31471-2023 (O&M)
Date of Decision:- 12.01.2024

Mahesh Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Siddarth, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana,
assisted by ASI Ramesh Kumar.

FIR NO.	DATE	POLICE STATION	OFFENCES
195	17.4.2022	Kheripul District Faridabad, Haryana	Under Sections 147, 149, 323, 302, 506 IPC (initially FIR was registered under Sections 323, 34, 506 IPC)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in a case registered in a case arising out of above mentioned FIR.
2. The FIR was lodged at the instance of Ram Naresh wherein it is alleged that on 9.4.2022 his son Himanshu had gone to Parshuram Chowk where he was attacked by Badal, Monu and their friends who

gave beatings to him and hit him with a smashed beer bottle on his head and on account of which his son died.

3. Learned counsel for the petitioner submits he is nowhere named in the FIR and came to be nominated subsequently on the basis of disclosure statement of co-accused Badal and Monu and that such like disclosure statements would hardly carry any evidentiary value.
4. It has further been submitted that it is a case of three injuries found on the dead body of Himanshu, whereas police has involved as many as 6 persons. It has further been submitted that complainant-Ram Naresh i.e. father of the deceased as well as mother of the deceased have been examined and during the course of trial none of them has supported the case of prosecution.
5. Opposing the petition, learned State counsel submitted that apart from the disclosure statement of co-accused, the presence of the petitioner is also established from the CCTV footage collected from the spot and although the CCTV footage does not specifically show that the petitioner is inflicting any injury, but his complicity would be clearly evident. It has further been submitted that the accused have apparently been able to win over the complainant and other witnesses and thus cannot be extended any benefit on account of said witnesses having resiled. The State counsel however, informed that the petitioner has been behind bars since the last about 1 year and that as on date only 2 out of the cited 29 PWs have been examined and that the petitioner otherwise is not involved in any other case.
6. This Court has considered the rival submissions.

7. It is not in dispute that the petitioner is not named in the FIR and came to be nominated on the basis of disclosure statement of the co-accused. The admissibility and value of such disclosure statements would be debatable. The complainant as well as mother of the deceased have already been examined and have not supported the case of prosecution. The petitioner otherwise has been behind bars since the last about 1 year. Conclusion of trial is likely to consume time inasmuch as only 2 out of cited 29 PWs have been examined till date. Having regard to the aforesaid factual position and also the fact that the petitioner otherwise enjoys a clean record, further detention of the petitioner is not justified. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

12.01.2024

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No