

2024:PHHC:111212



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

220

CRM-M-31181-2024 (O&M)
Date of decision: 29.08.2024

Mohit ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 176 dated 01.10.2023, registered under Sections 148, 149, 302, 323, 324, 379-B, 452, 506 of IPC (Sections 325, 120-B and 201 of IPC added later on) at Police Station Tigaon, Faridabad.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered at the instance of complainant Rajesh on 01.10.2023 alleging therein that on the same day, he along with his family members was present in his house. At about 08:30 AM, Rakesh Sharma, Rajesh Sharma, Ramesh, Dhanesh, Sandeep, Kallu, Sonu, Mohit son of Dhanesh, Gajender, Naveen, Karambir Sharma, wife of Rakesh Sharma, wife of Dhanesh, wife of Ramesh and son of Karambir entered into the house of the complainant armed with rods, dandas and they started giving beatings to the family members of the complainant. Rakesh Sharma gave

2024:PHHC:111212



blows with a rod on the hand, legs and chest of his mother Guddi. Co-accused Karambir gave blows with a rod on the legs, hand and waist of the complainant's father. Co-accused Kallu also gave rod blows on the leg of complainant's brother Rakesh. Co-accused Mohit, Parveen and Kallu gave beatings to Gunjan and Swati, sisters of the complainant, as well as to complainant's father Prabhunath. Co-accused Rakesh Sharma and other assailants also gave beatings to Prabhunath and other family members of the complainant. During the incident, the accused persons also recorded a video of the sisters of the complainant, who were without their clothes at that moment. They also took away an amount of Rs. 20,000/- and some other articles from the house of the complainant. The injured were brought to Central Hospital, Ballabhgarh for treatment. During the course of treatment, Prabhunath, father of the complainant, succumbed to his injuries at Central Hospital, Ballabhgarh. As alleged by the complainant, the cause of incident was that on 29.09.2023, the accused persons had left open their cattle in the fields of the complainant party, due to which, they suffered loss of the crop and in that regard, they have given a complaint against them and also that they had not voted Rakesh Sarpanch in the Panchayat elections. The complainant prayed for taking strict legal action against the culprits. Inquest proceedings and postmortem examination of the dead body of the victim were conducted. After registration of the FIR, investigation proceedings were initiated. The accused persons were arrested on 18.11.2023. During the course of investigation, disclosure statements of co-accused Ravinder @ Kallu and Mohit s/o Dhanesh were recorded, wherein they named the petitioner as one

2024:PHHC:111212



of the assailants. Subsequently, the petitioner was also arrested. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences. He had moved applications before the trial Court for grant of regular bail but the same had been dismissed, vide orders dated 14.03.2024 and 15.06.2024.

3. The present petition has been filed by the petitioner on the grounds and it has been strenuously argued by his counsel that he has been falsely implicated in this case. He was neither named in the FIR nor his presence at the spot had been established. He has been implicated in this case on the basis of the disclosure statement suffered by co-accused Mohit s/o Dhanesh and Ravinder @ Kallu, which cannot be considered to be admissible in evidence. Neither any specific overt act nor any specific injury on the person of victim Prabhunath has been attributed to him and as per prosecution version itself, the only role which has been attributed to the petitioner is that on hearing the siren of the police and seeing the police officials coming towards the spot, when the co-accused had been extending beatings to the victims, he had raised alarm, thereby facilitating the co-accused to flee from the spot. All the other persons named as co-accused are absconding. None of all the 45 witnesses cited by the prosecution has been examined so far. The petitioner is in custody since 18.11.2023. Trial is likely to take time. His further detention would not serve any useful purpose. Therefore, it is urged that the petition deserves to be allowed.

2024:PHHC:111212



4. *Per contra*, learned State counsel, in terms of the status report, has argued that there are serious allegations against the petitioner as by forming membership of an unlawful assembly and in prosecution of common object of that unlawful assembly, he and co-accused had opened an assault upon the family members of the complainant and caused injuries to them, thereby causing homicidal death of victim Prabhunath. The allegations against him are severe in nature. There are chances of his absconding, if extended benefit of bail. Therefore, he has argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. As per the allegation, on the night of 01.10.2023, the co-accused and the present petitioner formed an unlawful assembly for the purpose of opening an attack upon the family members of the complainant so as to make them leave the farmhouse, in which they were staying and in prosecution of their common object, co-accused Ravinder, Shankar, Rambal and Mohit s/o Dhanesh had gone towards the farmhouse in a car, whereas the co-accused had proceeded on foot towards the said farmhouse and they had opened an assault upon the family members of the complainant. The attribution as made to the present petitioner in the commission of subject offences is that he kept a vigil while co-accused were assaulting the victim and cautioned them when he heard siren of the police. As per prosecution version, the petitioner in his disclosure statement had disclosed that since he was suffering from some physical infirmity and had disclosed about this fact to co-accused Ravinder @

2024:PHHC:111212



Kallu, therefore, he had been advised to raise alarm in case situation so warranted. No specific injury on the person of the deceased or any other injured person has been attributed to the petitioner nor any specific overt act resulting into homicidal death of victim Prabhunath has been attributed to him. The question that he had hatched any conspiracy with co-accused or had formed membership of an unlawful assembly with them has to be decided on thorough assessment of the evidence to be produced during trial and not at this stage. Keeping in view the period of incarceration of the petitioner, the fact that trial is likely to take substantial time since no witness whatsoever has been examined so far, the part attributed to him, coupled with the fact that the petitioner does not have any criminal antecedents and attendant facts and circumstances of the case, I am of the considered opinion that no useful purpose would be served by keeping him in custody anymore.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

29.08.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No