



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-32247-2024
Reserved on: 12.08.2024
Pronounced on: 30.08.2024

Anshul

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gurmandeep Singh Sullar, Advocate
for the petitioner (through V.C.).

Mr. Rajat Gautam, Addl. A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
148	27.05.2023	Rajendra Park, District Gurugram	302, 323, 34, 365 IPC

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. In paragraph 17 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That the facts leading to the registration of the FIR of the case are that on 26.05.2023 an information was received Budhera, Gurugram from in Police Post Rao Tularam Samarak Hospital, New Delhi, regarding the admission of injured Ajeet Kumar, and upon this, police officials reached the hospital, where MLR No. 2421 dated 26.05.2023 and Rukka of injured Ajeet was received and fitness certificate of the injured was obtained from the doctor. Again ard around 08:30 information received was Budhera, Gurugram from in p.m., an Police Post Rao Tularam Samarak Hospital, New Delhi that Ajeet Kumar, had been declared as brought dead. Later on AUG 2074 deceased's brother Bal Mukund presented a written complaint stating therein that he was resident of village Ankhgaon, PS Sandesh. District Bhojpur, Bihar and WAS presently residing in Kapashera, New Delhi, Gali No.2 alongwith his younger brother on rent and was working as a delivery boy in Swiggy and his younger brother (since deceased) Ajeet Kumar used to reside in

the house of Dariya Singh, R/o Village Makrola, District Gurugram. He further stated that deceased Ajeet Kumar was working as security guard in JVS Company. The complainant further asserted that 26.05.2023, he received a on telephonic information from JVS company at around 08:00a.m. that his brother Ajeet was injured. Upon receipt of this information, he along-with his brother Sumit Kumar and cousin Rohit Kumar went to village Makrola, Gurugram in an Eco car bearing registration No. HR-26ED- 2479, along with driver Joginder and got his brother admitted in Rao Tula Ram Samarak Hospital, Jafarpur, New Delhi. There his brother Ajeet told him that on the intervening OF INDght of 25/26.05.2023 at around 12:00 p.m. AUG 2024 to 01:00 a.m. he was sleeping at his rented room when two boys came there and started beating him without any reason and took him to Baghi Karate Academy, Makrola and kept him captivated there for two hours. Thereafter, three men came and started beating him up with sticks, ropes and fists. One of the men was Sudhir, who was the Director of Baghi Karate Academy and other were Vishal and Anshul (petitioners herein) who were students of the Baghi Karate Academy and they left him there after two hours. It was further stated that when he was unable to attend to his duty the next day, then his colleague Satish called him and when he informed him about his situation, then his colleague Satish came and informed his brother and Ajeet was thereafter admitted to Rao Tula Ram Samark Hospital and he was discharged from the hospital, however, when they reached near Bijwasan deceased Ajeet was not feeling well and was again admitted to Rao Tula Ram Hospital, where he was declared as having brought dead. On the basis of these allegations, the FIR was registered and investigations were taken up in the matter.”

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. Counsel for the petitioner submits that as per the prosecution version the co-accused Vishal and Mahi Sharma were known to each other. On 25/26.05.2023 it is alleged that Vishal received the call from Mahi at around 12:15 F that one boy who is her neighbour came inside her room in the night and misbehaved with her is further alleged that Vishal told the story to the Petitioner and they both reached the room of Mahi. Over there Mahi told them that the boy staying in the nearby room misbehaved with and petitioner and co-accused went inside the room of that boy and started beating him. On asking the boy told his name as Ajit Singh S/o Kaushal Singh resident of Bhojpur, Bihar. It is further alleged that both the boys gave him beatings and took him to their karate academy. It is further alleged that Vishal called the owner of the academy Sudhir Sherawat who also came there after some time. Further alleged that in the academy they beat up Ajit for 2-3 hours with plastic rods and jur rope. After some time they let go of

Ajit with the warning. After that he was taken to the hospital but later on he was discharged from there and his brother Bal Mukund son of Kaushal Singh (complainant) was taking him back to his rented room. However, on the way the health of deceased Ajit deteriorated and his brother took him Tula Ram Memorial Hospital where he was declared dead at that point of time. Counsel for the petitioner further submits that all the Material witnessed have turned hostile. Out of total 35 prosecution witnesses 6, including the complainant have been examined and all the 5 private witnesses have turned hostile. The private witnesses who were none other than the brothers of the deceased appeared as PW-2, PW-3, PW-4 and PW-5 before the Ld. Trial Court and categorically stated that the present petitioner or the other co accused have no role in the death of their brother and they were declared hostile by the public prosecutor and were cross examined by him. However, nothing useful came out from the cross examination as well and these witnesses stood their ground.

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

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

"5. That the petitioner was arrested along with co- accused Vishal and Sudhir upon receipt of the appropriate incriminating evidence against them on 27.05.2024. They were interrogated while being in custody and upon interrogation they suffered their respective disclosure statements admitting their involvement in the commission of the present crime and in pursuance thereof, co-accused Vishal got recovered the golden colored skipping rope and plastic danda; co-accused Sudhir got recovered one mobile iphone bearing SIM card 7056839708, one light black colored skipping rope and one plastic danda, one pen drive 32GB Sandisk containing the video of the assault which was made using Sudhir's mobile phone and the petitioner got recovered his mobile iphone 9255579746, one light black colored skipping rope and one plastic danda and the blood-stained semi-washed clothes worn at the time of the offence by him. Offence punishable under Section 201 IPC was added to the present case. Further, the arrested accused afore named got demarcated the place of occurrence. The true translated reproduction of the disclosure statement of the petitioner is being appended to alongwith the present affidavit for the kind perusal of the Hon'ble Court as Annexure R-2.

10. That as per the investigation, petitioner had actively participated in the commission of the crime. Petitioner was working as a trainer at the Baghi Karate Academy where he was working alongwith the other co-accused. His complicity is writ large in the present crime as he alongwith the co-accused had beaten Ajeet at his room and had later taken him away to their academy and had brutally beaten the deceased Ajeet to death and there is sufficient incriminating against the petitioner to prove his complicity in the present crime. petitioner got recovered his

mobile iphone 9255579746, one light black colored skipping rope and one plastic danda and the blood stained semi washed clothes worn at the time of the offence by him.”

8. The petitioner got recovered the incriminating skipping rope and a plastic danda, which would indicate towards the petitioner’s involvement.
9. However, the similarly placed co-accused Sudhir was granted bail by High Court in CRM-M No.23138 of 2024 vide order dated 29.05.2024. Further, similarly placed co-accused Vishal was also granted bail vide order dated 03.07.2024 passed by Additional Sessions Judge, Gurugram.
10. Further, six witnesses have been examined. A perusal of the order of Vishal clarifies that these four were the main witnesses who did not support the prosecution’s case. It is a case of circumstantial evidence. Given the above and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.
11. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
12. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
13. While furnishing a personal bond, the petitioner shall mention the following personal identification details:
- | | | |
|----|--|--|
| 1. | AADHAR number | |
| 2. | Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk. | |
| 3. | Mobile number (If available) | |
| 4. | E-Mail id (If available) | |
14. This order is subject to the petitioner’s complying with the following terms.
15. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the

Court.

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

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.