

sought the opinion of doctor regarding fitness of injured to make the statement but the doctor opined the patients unfit to make the statement. On 12.07.2020, a message regarding death of Ferozi was received. On this Inspector Gurmeet Singh alongwith other police officials reached at MAMC, Agroha and sought the opinion of doctor regarding fitness of injured to make the statement. Thereafter, Inspector Gurmeet Singh recorded the statement of Dheera Ram, who was declared fit to make the statement. Dheera Ram got his statement recorded in presence of his family members, wherein he alleged that "he is employed at Water Works. On 11.07.2020, at about 4.00 p.m., he was on duty near the house of Sarpanch of village Mothsara, where, Anmol son of Parveen and Pawan (petitioner-accused) son of Bajrang, residents of village Asrawan came on a motorcycle and started abusing him. They gave him slaps and fists blows. Upon hearing noise, number of persons gathered at the spot and on seeing them, both of them fled away on their motor cycle. He came back to his house and narrated incident to his family members. Thereafter, at about 5.30 p.m., when, they were present in their house, Anmol son of Parveen, Rahul son of Dharampal, Rakesh and Sunder sons of Jaina Ram Nai, Vishnu son of Om Parkash, Wazir son of Balwant, Sonu, Pawan (petitioner-accused) and Surnder @ Kalu sons of Bajrang, residents of Asrawan armed with lathi, danda and iron rods came to his house and started abusing them in the name of their caste. They forcibly entered into their house and dragged them out at the road. Thereafter they attacked upon them with lathi, danda and iron rods. When female members of his family tried to save them, accused also inflicted injuries to his (Dheera Ram) wife Mamta, sister-in-law Rani, his brother Suresh and Ferozi. In the meantime, his cousin Pardeep and Kuldeep came at the spot and on seeing them, accused ran away from the spot. The enmity behind the occurrence was that the accused used to consume liquor at the chowk of the village and he made complaint to media and police against them. All the injured were got admitted in the hospital by Pardeep. During treatment, Ferozi died on account of injuries sustained in the occurrence. A request for taking necessary action against the accused was made". On the statement of complainant Dheera Ram, present case FIR was registered under sections 147, 148, 149, 302, 323, 365 and 452 IPC and Section 3 of SC & ST Act against total 9 accused persons ie (i). Anmol, (ii). Rahul, (iii). Rakesh, (iv). Sunder, (v) Vishnu, (vi) Wazir (vii) Sonu, (viii) Pawan and (ix) Surender @ Kalu at Police Station Agroha District Hisar and investigation was carried out."

4. The petitioner's counsel submits as follows:

- "4. That as per contents averments made in FIR it is clearly reflected that the present case is nothing but only misuse of the law. The appellant has no concern with the alleged offence and he has been falsely dragged into the present case by the complainant in connivance with the local police.
5. That as per the FIR no specific weapon is attributed to the appellant, even also no injury is attributed to him. No recovery is pending against the appellant.

6. *That the investigation of the present case has been completed and challan has been presented by the police on dated 11.09.2020. Now the matter is fixed for prosecution evidence before Ld. Trial court. Hence the appellant is liable to be released on regular bail and he will face trial and will appear before the trial court on each date or whenever he is required."*

5. 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.

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:

"4. That during investigation, proceedings under section 174 Cr.P.C. was conducted and thereafter, post mortem (Annexure R-1) of deceased Firoziram was conducted at MAMC Agroha. As per post mortem report, Cause of death is given below:-

"All the injuries are ante mortem in origin and caused by blunt force impact the cause of death in this case in our pinion due to collective effect of hammerroage and shock due to rupture of the spleen as result of injury to the lower chest and the injury to head which is sufficient to cause death and ordinary course of nature"

16. *That there are serious allegations against petitioner-accused Pawan as petitioner-accused Pawan alongwith other accused persons who were armed with lathi, danda and iron rods forcibly entered into house of the complainant and dragged them on the road and inflicted injuries to the complainant and other members of his family. When Ferozi and others came to rescue, the petitioner/accused alongwith co-accused also inflicted injuries to them and during treatment Ferozi succumbed to injuries sustained in the occurrence. The petitioner has played an active role in committing the offence. Part performed by the petitioner-accused Pawan is the most vital one and petitioner has been specifically named by the complainant in his statement. Active assistance of the petitioner-accused rendered on the spot couple with the sharing of common intention of petitioner, makes the petitioner equally liable for the principal act of causing injuries. Hence, role & conduct of the petitioner is on equal pedestal with other accused persons and all accused are equally liable for the murder of deceased. The facts of the present case clearly show that the petitioner was involved in the occurrence and grant of bail to the petitioner would also defeat the ends of justice. If the petitioner is released on bail, then there are chances that he may abscond from the trial and he may put pressure upon the complainant who belongs to scheduled caste and other witnesses."*

8. The complainant's counsel argued that the petitioner dragged the deceased,

where in the presence of the complainant, he was brutally murdered.

9. The objective of the petitioner and his accomplices to drag the deceased from his house appears to be assaulting him in public view, which is scary and points towards the petitioner’s mental outlook.

10. A perusal of the bail petition and the documents attached prima facie points towards the petitioner’s involvement and does not make out a case for bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

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

12. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

20.11.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.