



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

CRM-M No.38124 of 2024
Date of decision: 9th December, 2024

Raju @ Khalnayak
... Petitioner

Versus

State of Haryana
... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.
Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.330 dated 16.08.2022 under Sections 148, 149, 201, 302 of the IPC and Section 25 of the Arms Act, 1959 registered at Police Station Sector 14, District Panchkula.
2. Learned counsel for the petitioner has contended that the FIR in question was registered at the instance of Sunny (brother of the deceased), who allegedly witnessed the occurrence in question, wherein Rajesh (hereinafter referred to as, 'the deceased') was inflicted multiple injuries by the accused including the petitioner. Learned counsel submits that the complainant and one other alleged eye-witness to the occurrence in question i.e. PW Vikas, while testifying before the trial Court, did not support the case of the prosecution, as a result of which both these

material witnesses were declared hostile. Learned counsel has submitted that although a third eye-witness PW Satish Kumar did support the case of the prosecution, however, in the wake of the two contrary versions of the eye-witnesses coming to the fore before the trial Court, coupled with the fact that all the material witnesses stand examined, further incarceration of the petitioner would serve no useful purpose as there can be no apprehension of the witnesses being influenced. It has further been submitted by learned counsel that the petitioner has been in custody since 16.08.2022 with 17 prosecution witnesses still remaining to be examined, hence, there is no possibility of the trial concluding in the foreseeable future.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Rakesh, has not disputed the custody period of the petitioner nor has he, on instructions, disputed the stage of the trial. However, learned State counsel has reiterated the allegations levelled in the FIR in question, which stands reproduced hereunder:

"that Sunny @ Sony son of Munesh Pal resident of 1805 Balmiki Mohalla, Khera Rajiv Colony, Sector 17, Panchkula age 21 years having mobile number 7743019790 stated that he is resident of above inentioned address and doing the work of cleaning, there are two brothers his brother Rajesh @ Kaku was age 19 years and was doing the work of labourer his brother Kaku had dispute around one month ago with Vicky @ Sumit due to the said dispute Vicky and his family members were

having grudge today at about 2.00 PM in front of our house my brother was sitting at that time from the third house from a house are neighbourer Raju Khalnayak, Vicky Sumit son of Sh.Raju, Samma son of Vikram, Anil son of Ram Phul, were taking my brother while beating him and dragging him after hearing the voice of my brother, my uncle @ Manju, my another uncle Vikas ram after them, thereafter Raju who was having gandasi in his hand, Anil was having knife, Sampal was having knife and Vicky was also having knife in their hand they took my brother in side by dragging him, while we were watching they all from the weapons in their hand, behind the head near the waist gave injuries, at that time there was Sonu Khalnayak, Rohit, Gugu who is son-in-law of Raju and Kiran who is daughter of Raju were also having sharp edged weapons in their hands they also gave injuries on the back of the head and waist and my brother was bleeding and got unconscious inside their house on the information given by us police reached at the spot and in the unconscious state my injured brother was taken to Government hospital, Sector 6, Panchkula where the doctor referred my brother to PGI Chandigarh, where at PGI Chandigarh the concerned doctor declared my brother as dead, my brother had been given injuries through sharp edged weapons by Raju Khalnayak, Vicky @ Sumit, Rohit, Sony Khalnayak, Anil, Sampal Sanjay, Gugu, Kiran, due to which he has died. On the spot, when crowd gathered, all these persons fled away. The death of my brother has been caused by Raju Khalnayak through injuries given by sharp edged weapons. Action may be taken against all those persons named by me. Signature Sunny”

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. The petitioner has now been in custody since 16.08.2022. The present case is based on eye-witness account. All the material witnesses including the three eye-witnesses stand examined, out of whom two did not support the case of the prosecution, as a result of which they were declared hostile. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 9, 2024
rps

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