

**CRM-M-42030-2024****1****IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH****CRM-M-42030-2024****Date of decision : November 12, 2024**

Krishan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Lalit Kumar Narang, Advocate, for the petitioner
Mr. Bhupender Singh, DAG, Haryana

KULDEEP TIWARI,J. (ORAL)

1. Through the instant petition filed under Section 483 BNSS, 2023, the petitioner prays for grant of regular bail in case FIR No. 498 dated 12.10.2022, under Sections 148, 149, 302,323,506 IPC, (Sections 148, 149 IPC deleted during the investigation, and Section 34 IPC added later on), registered at Police Station Civil Lines, District Sonipat
2. The case as set up by the prosecution in the instant FIR is extracted hereinafter:-

“The brief facts of the prosecution case are that complainant Subhash @ Bobby moved a written complaint to the police alleging therein that he was resident of Gali No.15, Dhanak Basti, Sonipat. On 12.10.2022, at about 03:00 PM, Ankit S/o Krishan put earth into the sewer and she tried to make him understand, but Ankit slapped him. On hearing noise, his wife Sumitra and sons namely



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Banti and Manjit came there, but Ankit and Rohit @ Sunil assaulted them. Krishan, Meena and Deepak also came there, who caused injuries to them. Ankit caused injuries to his wife Sumitra by bricks. Thereafter, seeing gathering at the spot, all the culprits fled away from the spot by threats of life. They took Sumitra to Government Hospital, however, Sumitra succumbed to the injuries. He prayed for taking appropriate legal action against the accused.”

3. In the instant case, the petitioner was arrested on 18.10.2022 in the instant FIR. Earlier total five persons were arrayed as an accused, in FIR (supra), however, after investigation, only three were sent to face trial, and two were put in column No. 2.

SUBMISSIONS BY THE LEARNED COUNSEL FOR THE PETITIONER

4. Learned counsel for the petitioner submits that, (i) the petitioner has suffered incarceration of more than 02 years, as on today, and he is man of clean antecedents; (ii) in the FIR, there is no attribution against the petitioner that he has caused any injury to the deceased, and the only allegation against him is that he was present at the time of occurrence; (iii) that the conclusion of the trial will take long time as till date no prosecution witness has been examined so far.

SUBMISSIONS BY LEARNED COUNSEL FOR THE STATE

5. The learned State counsel filed reply dated 5.11.2024, by way of affidavit of Sh. Rahul Dev, HPS, Assistant Commissioner of Police, City Sonipat today in Court and the same is taken on record, and the copy of the same is supplied to the learned counsel for the petitioner.



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6. The learned State counsel opposed the grant of regular bail, however, while referring to the reply, he fairly submits that the petitioner was present at the spot, and he was sharing common intention, though, he fairly admits that in the FIR (supra), there is no allegation against the petitioner, that he has caused any injury to the deceased. Further having instructions from the quarter concerned, he informed this Court that charges in the instant case were framed on 6.10.2023, and the prosecution has cited total 18 witnesses in its final report, whereas, no witness has been examined so far.

7. Be that as it may, this Court after considering the rival submissions, is of the view that the instant petition is amenable to be allowed for the hereinafter extracted reasons:-

(i)there is no allegation against the petitioner that he has caused injuries to the deceased;

(ii)whether the petitioner was sharing the common intention would be a moot question to be decided by the learned trial court after appreciation of the evidence which is yet to be adduced by the prosecution;

(iii)the trial is yet to begin and the petitioner is a man of clean antecedents and has suffered incarceration of 02 years and 21 days as on date;

8. In view of the facts and circumstances recorded above, this Court deems it appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.



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9. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.
10. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

November 12, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned ? *Yes/No*
Whether Reportable ? *Yes/No*