

CRM-M-42530-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42530-2024
Reserved on: 13.11.2024
Pronounced on: 28.11.2024

Deepak ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.S. Khurana, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

Mr. Rohit Rana, Advocate for
Mr. Kunal Dawal, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0003	02.01.2022	Ballabhgarh Sadar Distt. Faridabad	148, 149, 302, 506, 120-B IPC (Section 25 of Arms Act added later on)

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 25 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:

“2. That brief facts of the case are that the present FIR was registered on the statement of complainant, who stated that on 01.01.2022 at around 5:30 PM, the son of the complainant namely Rahul left the house after intimating the complainant that he is going to meet Hariom son of Shri Brahampal. At around 6:10 PM, the complainant received an information that 8-10 persons are beating up his son Rahul. Upon receiving the said information, the complainant alongwith his family members rushed to the spot and saw that several accused persons armed with various weapons were beating up his son and accused persons escaped from the spot after seeing the complainant and his family members. At the time of leaving the spot, they also threatened the complainant and his family members with

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their lives. The injured Rahul was taken to hospital for further treatment but later on, he succumbed to his injuries during the treatment. The complainant prayed for taking legal action against the accused. On these allegations, the present FIR No. 0003 dated 02.01.2022, under Sections 148, 149, 302, 506, 120-B IPC (Section 25 of Arms Act added later on) was registered at Police Station Ballabgarh Sadar, District Faridabad."

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

6. It would be appropriate to refer to the following portions of the statement of PW-1 Dharampal, recorded before the Trial Court, in which he testified that "All the accused persons are present in the Court and I identify them." The said statement reads as follows:-

"Stated that on 01.01.2022 at about 05.30 pm, I was present at home. My son Rahul left the house stating that he is going to meet Hariom Hitesh son of Dharampal. At about, 06.15 pm, I had received a message that my son Rahul has been surrounded by 08-10 boys on the Sagarpur-Sunped Rond and are fighting with him. I accompanied by my nephews Udaypal and Surajpal went towards the spot in a car. In between Sagarpur and Sunped, we saw from the car head light that four boys namely Hariom @ Hitesh, Sagar, Aman and Aashish who were armed with knives were inflicting injuries upon my son. There were four other boys who were armed with lathi, danda and knives. They were also causing injuries to my son Rahul. We got out of our car and raised noise and on seeing us the assailants fled away with their weapons from the spot while running from the spot, the assailants stated that today you have saved your son but next time he would be eliminated my son and they also killed my family members. We shifted Rahul to the hospital for treatment. However, my son could not survive and died because of the injuries inflicted upon him by the accused. Aashish son of Gyanender and Aman son of Bachhu who are residents of my village and had caused injuries to my son. I had moved an application Ex. Pl to the police which bears my signature at point A. Accused persons namely Hariom @ Hitesh, Sagar, Partap, Deepak, Sachin and Harsh present in the Court are known to me and I identify them.

About 2-3 years ago, Braham Pal son of Balbir, Hitesh son of Braham Pal had quarreled with my son at Goverdhan (mathura) and they kept the enmity with my son and in prosecution with their common conspiracy committed murder of my son. Braham Pal had given threat to kill me.

All the accused persons are present in the court and I identify them."

7. Similarly, it shall be appropriate to extract the statement of PW-2, recorded during the trial, which reads as follows:

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“Stated that on 01.01.2022 at about 5:30 PM. my brother Rahul told my uncle Dharamraj Singh that Hari Om @ Hitesh son of Brahmpal had called him to see and on his asking Rahul had gone from the house to see him. At about 6:15 PM, my uncle Dharamraj had come at my house and told that 8/10 persons had waylaid Rahul and had raised altercation with him. I and my brother Udaipal Singh and my uncle Dharamraj went to the place of incident in our car. In the light of the car we noticed that Hari Om son of Brahmpal and Sagar son of Babloo, Aman son of Chander Bhan, Ashish son of Gianender were armed with knife and they were causing injuries to Rahul. Sachin, Pratap, Deepak and Harsh were having knives and lathies in their hands and they were also attaching upon my brother Rahul. We stopped the car near the place of incident and proceeded to save Rahul. At that time also these persons continued with attack upon Rahul. While running from there, they proclaimed that we had saved Rahul on that day and that in future they will kill Rahul and us.”

8. 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.

9. The petitioner's custody of around 03 years cannot be termed prolonged, given the sentence prescribed for the offense, which is imprisonment for life.

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

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

(ANOOP CHITKARA)
JUDGE

28.11.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.