

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-48319-2023

Date of Decision: 20.3.2024

Pawan

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Satbir Singh Kanwar, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.187 dated 23.3.2018 registered for the offences punishable under Sections 148, 149, 323, 325, 341, 506 IPC (Sections 307, 302, 120-B IPC added later on) at Police Station Sadar Bahadurgarh, Jhajjar.

2. As per allegations made in the FIR, on 22.3.2018, complainant Ashok Kumar was sitting in front of his house while his grandson Sarthi was playing in the street and in the meantime, his neighbour co-accused/Sunil came on a cycle and frightened his grandson. On this, Nikesh son of the complainant told Sunil to ride the cycle carefully, on which, Sunil started fighting with Nikesh. Thereafter, Nikesh came along with Krishan and Veer Pal and extended threats to the complainant party and then they went away. Thereafter, Sunil, Anil, Amit and Mukesh threw brick bats towards the complainant side and then the complainant along with his son

Ombir went to the police post to report the matter and when they reached in front of house of Pappal Prajapati, they were intercepted by petitioner-Pawan, Sunil, Anil, Aniket, Krishan and Kamlesh who were armed with pipes and rods. In the meantime, sons of the complainant namely Naseeb and Nikesh and nephew Pawan also reached there on a motorcycle. Krishan stopped all of them and stated that they will be taught a lesson for admonishing Sunil. Then they all started giving beatings to the complainant side with pipes and rods and caused multiple injuries to Naseeb, Nikesh and Pawan and in the meantime, other relatives of the complainant reached the spot, on which, the accused persons fled away from there. Subsequently, Nikesh died due to the injuries caused by the accused.

3. Counsel for the petitioner submits that the petitioner is in custody for the last more than 5 years and 11 months and is having no criminal history and that there are no specific allegations against the petitioner and that similarly situated co-accused Veerpal and Amit @ Lala who are also facing similar charges are already granted regular bail by this Court vide order dated 20.7.2020 (Annexure P-5) and order dated 8.11.2021 (Annexure P-6). Counsel for the petitioner further submits that it will take time for the trial to conclude and that all the material witnesses are examined and as such, no purpose is going to be served by detaining the petitioner in custody for any longer period.

4. On the other hand, State counsel submits that the petitioner actively participated at the time of occurrence which resulted in the death of Nikesh; that the petitioner was arrested and recovery of iron rod was effected from him during investigation. State counsel further submits that during trial, all the material witnesses are examined but still 19 more

witnesses remain to be examined on behalf of the prosecution. State counsel on instructions from ASI Mahavir Singh has not disputed the fact that co-accused Veerpal and Amit @ Lala who are also facing similar charges are enlarged on bail vide orders Annexures P-5 and P-6.

5. I have considered the submissions made by the counsel for the parties.

6. In the FIR, there are no specific allegations against the petitioner. As per custody certificate, the petitioner is behind the bars for the last more than 5 years and 11 months and is having no criminal history and as has been admitted by the State counsel, all the material witnesses are examined but it will take time for the trial to terminate and similarly situated co-accused Veerpal and Amit @ Lala are granted regular bail vide orders Annexures P-5 and P-6. There is nothing on record to show that the trial has been delayed due to the act and conduct of the petitioner. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

March 20, 2024
Paritosh Kumar

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