

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-51508-2023

Date of Decision:-13.02.2024

Neeraj.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Saurabh Sharma, Advocate for the Petitioner.

Mr. Pawan Kumar Jhanda, Deputy Advocate General, Haryana.

Mr. M.S. Khillan, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.147 dated 13.03.2022 under Sections 120-B, 302, 307, 34 IPC registered at Police Station Kurukshetra University, District Kurukshetra.

2. The present FIR came to be registered at the instance of Gurdev Singh which reads as under:-

“ Statement of Gurdev Singh aged 43 years s/o Sh. Amarnath r/o Village Gamri Jattan, P.S K.U.K, District Kurukshetra 94668-70086. It is stated that I am a resident of above- mentioned address and work as a mason. Sahil s/o Subhash Chand r/o Gamri Jattan used to drive his motor-cycle through our street in much speed and on 26-02-2022, I along with my son Amit Kumar and Vishal Kumar s/o Ram Lal had made him understand that you should drive your motor-cycle in a proper speed because of which

he and his father Subhash s/o Ram Bhaj had started keeping a grudge with us. Subhash had come a few days ago and had threatened that we will kill your son Amit Kumar but we ignored his threat. I made my son understand. Thereafter, on 12-03-2022 at about 9:00 P.M we received an information that today Sahil s/o Subhash and Neeraj s/o Dharampal r/o Gamri Jattan have given beatings to my son around Dera Kirpa Ram upon road from Village Dabkheri to Gamri Jattan. Upon that information, we came from our house to the spot of occurrence and saw that my son Amit Kumar is lying unconscious on the road and Vishal Kumar s/o Ram was standing beside him. That Vishal Kumar told us that he was coming from Village Dabkheri after getting a haircut to his own village Gamri Jattan when he saw in the light of his motor-cycle that Sahil s/o Subhash and Neeraj s/o Dharampal both residents of Village Gamti Jattan were beating Amit Kumar. I stopped my motor-cycle and went near them and tried to save Amit from them, then I saw they had attacked Amit Kumar with pointy weapon. Vishal Kumar told me that when he was trying to save Amit from them, then they attacked him also with an intention to kill on account of old grudge with a sharp weapon. That Amit Kumar had fallen down and upon seeing him lying on the ground they ran away along with their motor-cycle. Thereafter, we picked my son Amit Kumar from the spot and brought him to Govt. Hospital for treatment. That upon reaching the Govt. Hospital my son Amit Kumar was declared dead by the doctor. The dead body of my son Amit is lying in the Emergency upon a stretcher in Govt. Hospital. Subhash has got my son murdered by his son Sahil and Neeraj s/o Dharampal by using a sharp-edged weapon on account of old grudge and has got a deadly attack on Vishal s/o Ram Lal. Strict legal action be taken against Subhash s/o Rambhaji. Sahal s/o Subhash and Neeraj s/o Dharampal r/o Gamri Jattan and the postmortem of dead body of my son Amit be got done. I have given my statement in LNJP, KKR, heard it, the same is correct. Sd/- Gurdev.”

3. The learned counsel for the petitioner contends that it is case of blind murder. Vishal PW-1 has been introduced as an eye witness. During

the cross examination, Vishal had admitted that he could not be seen with the deceased in the CCTV footage at the clinic of the doctor. The allegations of him receiving injuries in the occurrence also stands falsified by the fact that his MLR does not depict any injury. The co-accused Subash had been granted the concession of bail by this Court vide order dated 12.04.2023. As the petitioner was in custody since 13.03.2022 and only 07 out of the 33 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and, therefore, the petitioner was entitled to the concession of bail.

4. The Counsel for the State as well as the counsel for the Complainant on the other hand contend that PW-1 Vishal who is an eye witness of the occurrence has clearly depicted the manner in which the injuries were caused by the petitioner and co-accused Sahil. The evidentiary value of the deposition of Vishal including admissions made by him pertaining to him being not visible in the CCTV footage etc. would be adjudicated upon during the course of the Trial but not at the stage of considering the bail petition. The co-accused Subash had been granted the concession of bail as he was not present at the spot and had therefore not been attributed any injury on the person of the deceased unlike the petitioner. The first bail petition of the petitioner was argued at length and was withdrawn on 02.06.2023. No fresh ground had arisen thereafter entitling the petitioner to the grant of bail as the evidence of Vishal as relied upon by the petitioner was recorded on 17.03.2023 before the first bail application of the petitioner came to be argued and withdrawn. They therefore, contend that as the petitioner was one of the main assailant and there is a categoric eye version account of the manner in which the occurrence took place, he was not entitled to the concession of bail.

5. I have heard the learned counsel for both the parties at length.
6. A perusal of the FIR and the statement of Vishal would *prima facie* establish the manner in which the occurrence took place and the role played by the petitioner. The evidentiary value of the deposition of Vishal would be adjudicated upon during the course of the Trial. Vishal’s statement was recorded as PW-1 on 17.03.2023. It was referred to even earlier when the first bail application came to be withdrawn on 02.06.2023. Therefore, there are absolutely no change in circumstances other than the further incarceration of the petitioner.
7. In view of the above, I find no merit in the present petition and the same stands dismissed.
8. However, the observations made hereinabove are only for the purposes of deciding this regular bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

February 13, 2024
Vinay

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