

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

CRM-M-55647-2023

Date of Decision:-23.01.2024

Phool Chand @ Fula.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Ashish Tewatia, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

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.162 dated 31.05.2023 under Sections 306, 34 IPC registered at Police Station Hassanpur, District Palwal.

2. The present FIR came to be registered at the instance of Ajit Singh who stated that on 31.05.2023 at about 5.30 am one woman came to his house and woke him up stating that Deepak, his brother was hanging from a tree. They called the police who came to the spot. In fact on 15.05.2023 his brother Deepak had met Arun, Neeraj, Ritik, Phool Chand @ Fula (petitioner) and 4/5 other persons who had taken him into the jungle and had given him beatings leaving him in an unconscious state. Regarding this occurrence Deepak had given the application to the police chowki and police station. On 30.05.2023 a panchayat had been convened but no decision was taken. After the panchayat Bharti, Phool Chand @ Fula and

Arun along with Neeraj, Anu, Ritik and 6/7 other persons had threatened his brother. It was on this count that his brother had committed suicide.

3. The learned counsel for the petitioner contends that taking the allegations to be correct no offence under Section 306 IPC was made out. Merely threatening a person would not amount to abetment in the absence of any specific overt act on the part of the accused side. By no stretch of imagination could it be held that the petitioner intended to abet the deceased to commit suicide. As the petitioner was a first time offender, in custody since 01.06.2023 and none of the 09 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and, therefore, he was entitled to the concession of bail.

4. The Counsel for the State on the other hand contends that the petitioner and his co-accused not only beat him up but also threatened him. It was in this situation that the deceased committed suicide. Therefore, the nature of the allegations levelled against the petitioner did not entitle him to the grant of bail. He however, concedes that the petitioner was a first time offender, in custody since 01.06.2023 and none of 09 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first time offender, in custody since 01.06.2023 and none of the 09 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present

petition is allowed and the petitioner-**Phool Chand @ Fula** son of Sh. Bharti is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 23, 2024

Vinay

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