

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

CRM-M-59887-2023

Date of Decision:-26.02.2024

Akshay.

.....Petitioner.

Vs.

State of Haryana.

.....Respondents.

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

Present:- Mr. Sushil Kumar Verma, Advocate &
Mr. Rajat Verma, Advocate for the Petitioner.

Mr. Rajiv Goel, Deputy 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.424 dated 19.12.2020 under Sections 302, 34 IPC registered at Police Station Sirsa Sadar, District Sirsa.

2. The present FIR came to be registered at the instance of Rajesh son of Sh. Dharam Pal Jandu which reads as under:-

“ Statement of Rajesh s/o Dharam Pal Jandu, R/o Madhosinghana aged 30 years, mobile No.95419-91800. It is stated that I am resident of above said address and I am agriculturist. I have snacks shop opposite to Jandu Petrol Pump. Hanuman s/o Mohan Lal, R/o Madhosidhana runs egg stall opposite to my shop and on another side of my shop there is one country liquor vend on Gudia Road. Akshay son of Khayali and Rajesh son of Dalip, caste Balmiki, residents of Madhosinghana runs a snacks/egg stall adjoining to it. That on the night of 18/19.12.2020 at about 09:45 PM, I heard that Hanuman s/o Mohan Lal, r/o Madhosidhana purchased one quarter of liquor as

well as Rajesh and Akshay bought one half of liquor from the liquor vend. Thereafter, dispute arose amongst Rajesh, Akshay and Hanuman on some issue. One Sonu s/o Ramesh, caste Balmiki, resident of Madhosidhana was also present there at that time. Hanuman gave a phone call and asked me to come there as the above said persons were beating him. At that time, I was present at my house situated at Dhani of my fields. I met one Rameshwar son of Kashi Ram in drunken condition) when I was coming from my Dhani to the spot, who was on his motorcycle and he informed me that Hanuman has been killed and he was going to my Dhani for informing me. Thereafter, I alongwith Rameshwar reached at the spot, where above said Sonu had brought the ambulance from Government Hospital, Madhosidhana. There I saw the dead body of Hanuman lying near the Kiosk (Khokha) of Akshay and Rajesh and the blood was oozed from his face and head etc. The person came in ambulance declared the Hanuman as dead after checking. The above said Akshay, Rajesh and Sonu etc. have killed Hanuman by inflicting injuries with Danda and brick bats. That after conducting proper inquiry, strict legal action may kindly be taken against the person who has inflicted the deadly injury. I can identify the dead body of Hanuman. Hanuman called me through his mobile on my mobile No.95419-91800 but now, I do not know the mobile number of Hanuman. My mobile phone is switched off due to low battery. The fact of buying liquor was disclosed to me by a person working at liquor vend, who has gone away after shutting the liquor shop and his name is Pappu. I have heard and read the statement and the same is correct. Sd/- Rajesh, 95419-91800."

3. During the course of the investigation statement of Rameshwar son of Sh. Kashi Ram was recorded to the effect that he had seen a scuffle taking place between Hanuman (deceased) with Rajesh, Akshay (petitioner) and Sonu.

4. The Counsel for the petitioner contends that he has been falsely implicated in the present case. However taking the allegations to be correct a sudden fight had taken place between the deceased on the one hand and the

accused on the other hand under the influence of liquor. Therefore, the offence if any, would be one under Section 304 IPC. The alleged recovery of a *danda* had been planted upon the petitioner. As the petitioner was in custody since 20.12.2020, only 02 of the 19 prosecution witnesses had been examined so far and co-accused of the petitioner, namely, Rajesh and Sonu had been granted the concession of bail by this Court vide orders Annexure P-4 & P-5, the further incarceration of the petitioner was not required and he was entitled to the concession of bail.

5. The Counsel for the State on the other hand has filed a reply by way of affidavit dated 20.02.2024 of Mr. Jagat Singh, HPS, DSP (HQ), Sirsa, District Sirsa in the court today, which is taken on record. While referring to the said reply he contends that the petitioner and his co-accused brutally assaulted the deceased leading to his death. Therefore, he was not entitled to the concession of bail. He however, concedes that the petitioner was in custody since 20.12.2020, only 02 of the 19 prosecution witnesses had been examined so far and that two accused- Rajesh and Sonu had been granted the concession of bail.

6. I have heard learned Counsel for the parties.

7. 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 in custody since 20.12.2020, only 02 of the 19 prosecution witnesses have been examined so far and that two accused- Rajesh and Sonu have been granted the concession of bail. In this situation the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Akshay** son Sh. Khayali Ram 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.

9. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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.
10. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.
11. The petition stands disposed of.

(JASJIT SINGH BEDI)

JUDGE

February 26, 2024

Vinay

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