

2024:PHHC:020665  
2024:PHHC:020767  
1

**Date of decision : 14.02.2024**

## Versus

**CRM-M-62897-2023**

Versus

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Mr. R.K. Ambavta, AAG, Haryana.

Mr. Rakshit Gupta, Advocate for  
Mr. Rishi Nijhawan, Advocate for the complainant.

**PANKAJ JAIN, J. (ORAL)**

These two petitions have been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in case F.I.R. No.158 dated 13.06.2022 registered for the offences punishable under Sections 148, 149, 341, 302, 120-B of the Indian Penal Code, 1860 and Section 25 of Arms Act, 1959 at Police Station Guhla, District Kaithal, Haryana.

2. Custody Certificates of the petitioners have been filed today in Court. The same are taken on record.

3. As per the contents of the FIR, it was alleged as under :

“xxx I am the resident of abovesaid address and I run a shop of Kiryana. We are three brother. In our village Guhla, a fare of Peer Baba No Bahar be constituted every year. In this year, the fare has also constituted, my nephew Harshit Kumar son of Manish Kumar aged about 19 years who study in 10+2 standard, on 12.06.2022 at about 09:30 PM went for watching the fare and I had also gone in the fare where an altercation took place between my nephew, Salim and Rahul son of Laldin residents of Sega Plot which I resolved the same and Salim, Rahul son of Laldin residents of village Sega Plot went from there and thereafter at about 15/20 minute later my nephew Harshit Kumar was going towards the swing established in the fare then Salim, Rahul son of Laldin, Sachin son of Nawaj, Kamli son of Bheema, Shaile son of Husain, Sunny son of Dharampal residents of Sega Plot and Banti son of unknown resident of Theh Nawal suddenly came there and stopped the way of my nephew and stated that we teach you the lesson for arguing with us. On asking that all the boys started beating my nephew and Rahul son of Laldin gave knife blow with the knife holding in his hand on the head of my nephew Harshit Kumar which hit on the neck of Harshit Kumar then Rahul gave knife blow to my nephew Harshit Kumar which hit in the waist of Harshit Kumar. My nephew shouted 'Maar Diya Maar Diya'. On hearing the noise, other persons also came towards the swings and on seen coming us Sali, Rahul son of Laldin, Sachin son of Nawaj, Kamli son of Bheema, Shaile son of Husain, Sunny son of Dharampal residents of Sega Plot and Banti son of unknown resident of Theh Nawal ran away from the spot with their respective weapons. On coming to know about the fight, my brother Manish Kumar also came on the spot. My nephew got unconscious due to the injuries suffered in the fight. I and my family members brought him to Amar Hospital Patiala by arranging vehicle. Where during the treatment, my nephew Harshit Kumar died due to injuries suffered in the fight. I request

you that legal action should be taken against Salim, Rahul son of Laldin, Sachin son of Nawaj, Kamli son of Bheema, Shaile son of Husain, Sunny son of Dharampal residents of Segra Plot and Banti son of unknown resident of Theh Nawal. I got recorded my statement at Manipal Hospital Patiala. Heard. The same is correct. Sd/- Gaurav.”

4. Counsel for the petitioners submits that the FIR has been registered on the eye-witness account by a close relative of the deceased and there is no attribution to the petitioners. Even in the investigation the petitioners were found to be innocent however they have been summoned later on as additional accused by invoking Section 319 Cr.P.C. Petitioner-Deepak is behind bars for more than 1 year, 7 months and 28 days and petitioner-Pawan Kumar has also undergone 1 year, 7 months and 26 days. By now, only 2 out of 24 cited witnesses have been examined and thus the trial is not likely to conclude in the near future. There is no injury attributed to the present petitioners.

5. Per contra, State Counsel as well as counsel for the complainant though opposed the bail plea submitting that its a cold blooded murder of a 19 years old boy in which the petitioners participated along with the main accused. However counsel for the complainant as well as State Counsel are not in position to dispute that apart from the accusation of the petitioners of being present on the spot that too on the basis of disclosure, no overt act has been attributed to the petitioners in whole of the incident as per the FIR.

6. Having heard rival contentions of the parties and after going through records of the case, without commenting on the merits thereof and keeping in view the fact that the petitioners were found to be innocent during the course of investigation and in view of the incarceration already suffered by the petitioners coupled with the fact that the trial is not likely to conclude in the near future, the present petitions are allowed. The petitioners are ordered to be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
7. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.
8. A copy of this order be kept on the file of other connected case.

February 14, 2024  
Dpr

(Pankaj Jain)  
Judge

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