

2025.PHHC.159412



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-7136-2025 (O&M)

Reserved on : 07.11.2025

Pronounced on : 18.11.2025

Deepak**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai, Advocate and
Mr. R. S. Bagga, Advocate
for the petitioner.

Ms. Himani Arora, DAG, Haryana.

Mr. Rakesh Kumar Lathwal, Advocate
for the complainant.

MANISHA BATRA, J.

1. This petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No. 136 dated 28.09.2023, registered under Sections 148, 149, 302 and 120-B of IPC and Sections 25 and 27 of the Arms Act, 1959 at Police Station Mohana, District Sonapat.
2. As per the allegations, on the intervening night of 27/28.09.2023, on receipt of a telephonic message regarding homicidal death of Anand, a police party had reached at the spot and recorded statement of complainant Balbir, father of victim Anand, who alleged that on 27.09.2023, his son Anand had gone to watch the bicycle game near old age home. He was murdered by the present petitioner and co-accused. He disclosed that the assailants had

2025.PHHC.159412



used firearms and other weapons to kill his son Anand. After registration of the FIR, investigation proceedings were initiated. Post-mortem examination of the dead body and the inquest proceedings were conducted. The statements of the eyewitness Rohtash, Aryan and Sunil were recorded. The petitioner, who had been named as one of the assailants, had sustained injuries in the same incident and he was found to be admitted in PGIMS, Rohtak. He was discharged on 04.10.2023 from the hospital and was arrested on the same day. He was interrogated and suffered disclosure statement admitting his involvement in the crime and further disclosed that he had pushed down the victim and had given a blow with a wooden baton on his head and at that time, he had sustained injuries at the hands of Sunil, Aryan, Deepanshu @ Kala and Anil, who were accompanying the victim. In pursuance of his disclosure statement, the petitioner got recovered the wooden baton used by him in the crime. Co-accused were also arrested subsequently. Investigation now stands completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned senior counsel for the petitioner that he has been falsely implicated in this case. During the course of investigation, a new case has been tried to be set up against the petitioner, which creates a serious doubt about the veracity of the prosecution version. The alleged witness Rohtash, in his statement recorded under Section 164 of Cr.P.C., had not made any mention of his being present at the spot at the time of occurrence and has been planted subsequently as an eyewitness. The petitioner was alleged to have caused an injury on the head of the victim with

2025.PHHC.159412



a knife as per the FIR. However, no lacerated wound was found on the head of the deceased as per the post-mortem report and to cover up this lacuna, subsequently, he was alleged to have caused an injury on the head of the victim with a wooden baton. The version in the FIR with regard to use of firearm by co-accused Deepak @ Mathori has also been changed subsequently during the course of investigation and this fact *prima facie* shows that in fact a false story has been concocted and there was no eye-witness to the occurrence. Other eye-witnesses have also been planted. They are avoiding their appearance before the learned trial Court for recording of their respective sworn depositions. The investigation has since been completed and challan has been filed. Conclusion of trial is likely to take time. The petitioner is in custody since long. No useful purpose would be served by detaining him in custody any further. Therefore, it is urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. Learned State counsel, assisted by learned counsel for the complainant, has vehemently argued that there are serious and specific allegations against the petitioner, who formed membership of an unlawful assembly with the co-accused and in prosecution of common object thereof, had voluntarily caused injuries to victim Anand, thereby causing his homicidal death. Since the complainant was not the eye-witness to the occurrence, therefore, the inconsistencies, if any, in his version while lodging the FIR cannot be considered to be any serious infirmity in the case of the prosecution. The material witnesses are yet to be examined. There are chances of the petitioner's intimidating the

2025.PHHC.159412



witnesses or absconding, if released on bail. He has criminal antecedents. Therefore, it is urged that she does not deserve to be released on bail.

5. This Court has heard the rival submissions made by the parties.

6. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common object of that assembly, is further alleged to have assaulted victim Anand, who had succumbed to the injuries so sustained by him. Though in the FIR, it was mentioned by the complainant that the present petitioner had struck injuries with a knife on the head of the victim, however, as per the prosecution case, the petitioner had suffered disclosure statement to the effect that he had given blow with a wooden baton on the head of the victim. He is also alleged to have got recovered the said baton at his instance. As pointed out by learned senior counsel for the petitioner, there appears to be some inconsistencies in the version given in the FIR and the case set up during the course of investigation. However, the material witnesses are yet to be examined. The presence of the petitioner at the spot stands prima facie established from the fact that he too had sustained injuries in the same incident, which as per his disclosure were caused by Sunil, Aryan, Deepanshu @ Kala and Anil. He was admitted in the hospital and was arrested on 04.10.2023 after his discharge. The petitioner appears to be an active participant in the occurrence. He has been linked to the acts attributed, with the aid of Section 149 of IPC. The essential ingredients of this offence are that:

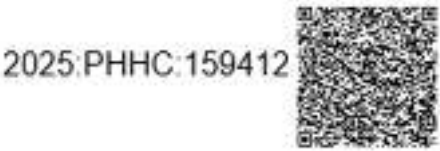
2025.PHHC.159412



- i. There must be an unlawful assembly;
- ii. Commission of an offence may be by any member of the unlawful assembly; and
- iii. Such offence must have been committed in prosecution of the common object of the assembly, or must be such as the members of the assembly knew to be likely to be committed.

7. On a cursory perusal of the above ingredients, it is apparent that even mere presence in the unlawful assembly but with an active mind to achieve the common object, makes a person vicariously liable for the acts of the unlawful assembly. Under Section 149 of IPC, the liability of the other members, for the offence committed during the continuance of the occurrence rests upon the fact whether the other members knew beforehand that the offence actually committed was likely to be committed in prosecution of the common object. Such knowledge may reasonably be collected from the nature of the assembly, arms, or behaviour at or before the scene of action.

8. In the instant case, the petitioner is alleged to have caused injury on the head of the victim with a wooden baton. The victim had died due to the impact of the injuries so sustained by him. The allegations show common object of the members of the unlawful assembly including the petitioner. The allegations against him are quite serious in nature as he along with co-accused stands accused of a heinous crime punishable with capital punishment or life imprisonment. The petitioner is involved in several other cases, two out of which are pertaining to offence of attempt to murder. While length of incarceration is a factor that weighs with the Court in considering bail, it



cannot overshadow the seriousness of the accusation of murder under Section 302 of IPC. There exists a genuine apprehension that his release may imperil the course of trial and undermine the integrity of the trial and could pose a risk by influencing unexamined witnesses or tampering with evidence. It is well-settled proposition of law that grant of bail is a discretionary relief to be granted or denied based on specific facts and circumstance of each case and there cannot be any exhaustive parameters set out for considering the application for grant of bail. The factors such as nature of accusations, severity of punishment if the accusations entail a conviction and nature of evidence in support of accusations are to be seen. That apart, reasonable apprehension of tampering with evidence or threatening the complainant is also to be weighed. Frivolity of prosecution should always be considered, and it is only the element of genuineness that has to be considered in the matter of grant of bail. In light of the foregoing legal principles and having regard to the petitioner’s role in the incident and the reasonable apprehension of his absconding or tampering with evidence, this Court finds no compelling ground to grant bail to him. Accordingly, the petition is dismissed.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

18.11.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>