



**CRM-M-10231-2024 (O&M)**  
**Date of decision: 04.03.2025**

....PETITIONER

## VERSUS

## ....RESPONDENT

**CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY**

Mr. Surender Singh, AAG, Haryana.

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**SANJIV BERRY, J.(ORAL)**

2. By way of present petition filed under Section 439 Cr.P.C., the petitioner seeks regular bail in case FIR (Annexure P-1) as under: -

| <b>FIR No.</b> | <b>Dated</b> | <b>Sections</b>                                                           | <b>Police Station</b>          |
|----------------|--------------|---------------------------------------------------------------------------|--------------------------------|
| 398            | 02.08.2023   | 147, 148, 149, 188, 302, 506 of IPC and Section 25 (1-b) (a) of Arms Act. | City Sohna, District Gurugram. |

4. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is innocent and has been falsely implicated in this case on the allegations of being member of unlawful assembly forming part of mob violence. He submits that the petitioner is in custody since 03.10.2023 and

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there being no specific overt act attributed to him, although alleged to have given brick bat blows in the occurrence which is manifestly wrong. He contends that the challan has already been presented in Court wherein 52 witnesses have been cited but none has been examined till date and the petitioner is having no criminal antecedents and is lingering on in jail. Hence, prayed for grant of bail.

5. Per contra, learned State counsel, by referring to the reply filed by the State, contends that the petitioner had been a member of unlawful assembly indulging in mob violence. Brick bat blows are attributed to have been given by the petitioner in the occurrence and as such, does not deserve concession of bail. Hence, he prayed for dismissal of the petition.

6. After considering the rival contentions and perusing the record, it transpires that the instant FIR was registered on the complaint moved by one Pawan alleging that on 31.07.2023 at about 10.30 P.M. while he was going to Sohna from Nuh in his car and when he reached near Javed Colony, Nirankari College, he found 150 persons present there holding iron rods, pistols and stones in their hands and on the provocation of co-accused Javed, the said mob attacked him due to which his car got unbalanced and hit the divider and when he came out of car he was given beatings. He further stated that the mob also attacked his friend Pardeep and Ganpat and although Ganpat was saved due to police intervention but his friend Pardeep died due to the injuries. Hence, the present FIR.

7. The perusal of record would reveal that the petitioner is not named in the FIR and his name surfaced during the course of investigation. Admittedly no specific overt act is attributed to the petitioner in the alleged



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occurrence which involved more than 150 persons forming unlawful assembly. The allegations qua the petitioner are that he had given brick bat blows during the occurrence as member of unlawful assembly. The petitioner is not having any criminal antecedents and has been in custody since 03.10.2023. As stated above, the prosecution has not examined even a single witness till date out of 52 witnesses cited by it. Therefore, considering these circumstances and also the allegations attributed to the petitioner, no purpose would be served by detaining the petitioner in custody any longer as conclusion of trial to ascertain criminal liability, if any, of the petitioner will take sufficient long time.

8. Accordingly, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Duty Magistrate/Judge on Duty concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

10. Pending application(s), if any, also stand disposed of.

(SANJIV BERRY)  
JUDGE

04.03.2025  
kanika

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|-----|----------------------------|--------|
| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |