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

297-2

CRM-M-21780-2025 (O&M)
Date of decision : 12.11.2025

Jatinder @ Soni

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

Ms. Himani Arora, DAG, Haryana.

Mr. Ashit Malik, Senior Advocate with
Mr. Abhinav Kansal, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner
in case bearing FIR No. 41 dated 29.01.2023, registered under Sections 148,
452, 323, 325, 302, 307, 379, 506, 201 and 149 of IPC and Section 25 of the
Arms Act at Police Station Murthal, District Sonipat.

2. As per the allegations, on 29.01.2023, on receipt of an
information qua an altercation having taken place at village Buktawarpur
and one Dheeraj and his mother Krishna Devi having sustained serious
injuries and further that they were taken to hospital, a police party headed by
Hari Om reached at the spot of occurrence. Eyewitness Om Parkash met the
police party but did not record his statement. On the same day, a written

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complaint was submitted by Neeraj son of aforesaid Om Parkash alleging that in the morning of that day, he had gone to village Badoli, when his wife telephonically informed him that the accused persons along with two unknown persons had entered into their house. She told him that they were assaulting his brother Dheeraj and parents and they had sustained injuries. On receipt of this information, the complainant rushed to his house and found his brother and parents to be in injured condition. Initially, a case under Sections 148, 452, 323, 325, 307, 379, 506, 201 and 149 of IPC and Section 25 of the Arms Act was registered. Investigation proceedings were initiated. Victim Dheeraj succumbed to his injuries on 30.01.2023. Post-mortem examination of the dead body of the victim and inquest proceedings were conducted. Offence under Section 302 of IPC was added.

3. As per the further allegations, co-accused Baljit @ Balwan and Surender @ Nishu were arrested on 30.01.2023. They suffered disclosure statements admitting their involvement in the crime and got recovered weapons of offence. On 03.02.2023, the present was arrested. He suffered disclosure statement admitting his guilt and further disclosed that on the fateful day, he along with the co-accused had entered into the house of the victims and that he was armed with an iron *Farsa* but he had inflicted injuries to the victims with the side of wooden handle of that *Farsa*. He got recovered the said weapon used by him in the crime. Subsequently, other co-accused were also arrested. They too suffered disclosure statements admitting their involvement in the crime. Investigation now stands completed. The petitioner along with the co-accused is facing trial for commission of aforementioned offences.

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4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is not named in the FIR. His name has figured subsequently in the disclosure statement of the co-accused, which cannot be considered to be admissible in evidence. No specific injury or role has been attributed to him. He was not seen entering into the house of the victims in the CCTV footage, which is relied upon by the prosecution. A false recovery has been planted upon him. The petitioner is in custody for a period of more than 02 years. He has clean antecedents. The trial will take considerable time to conclude. His further incarceration would not serve any useful purpose. Material witness Om Parkash already stands examined and there are no chances of the petitioner's intimidating him or misusing the concession of bail. With these broad submissions, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on bail.

5. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, has vehemently argued that the allegations against the petitioner are quite serious in nature. He had formed membership of an unlawful assembly with the co-accused and in prosecution of common object of that assembly, actively participated in the crime, thereby assaulting the victims. The injuries sustained by victim Dheeraj had taken a toll on his life. Other victims had also sustained serious injuries including mother of the deceased, who sustained five injuries, which were opined to be dangerous to life. PW Om Parkash had supported the prosecution version. There are chances of the petitioner's absconding or intimidating other material witnesses, if extended benefit of bail. On the principles of vicarious liability also, the complicity of the petitioner stands *prima facie* established. Hence,

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it is urged that the petition is liable to be dismissed.

6. This Court has considered the submissions made by both the sides.

7. The petitioner is alleged to have formed membership of an unlawful assembly with the co-accused and in prosecution of common objection thereof, injuries were caused to victims Dheeraj and his mother Krishna Devi. Injuries sustained by victim Dheeraj were proved to be fatal and resulted into his death, whereas victim Krishna Devi had also sustained five injuries which have been declared to be dangerous to life. Although, he has been nominated in this case on the basis of the disclosure statement suffered by co-accused Baljit but the subsequent investigation as well as the recovery got effected by him establishes his active participation in the crime. The petitioner has also been linked to the acts attributed with the aid of Section 149 of IPC. The essential ingredients of this offence are that:

- 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.

8. From a 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

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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.

9. In the instant case, the petitioner along with the co-accused had entered into the house of deceased victim and had opened an attack upon him as well as his parents, which *prima facie* shows the common object of the members of the assembly including the petitioner. The allegations against the petitioner are serious in nature as he along with the co-accused stands accused of a heinous crime punishable with capital punishment or life imprisonment. As per the contents of the FIR, he was armed with an iron Farsa and had caused injuries to the victims with the same. The injuries so caused by him were either with the handle side or sharp edged side of the weapon is a matter of trial and cannot be looked into at this stage. The deceased victim is reported to have sustained 41 external injuries on his person, whereas his mother had received five injuries which were found to be dangerous to life. 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

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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, the recovery of the weapon of offence at his instance and the reasonable apprehension of his absconding or tampering with evidence, this Court finds no compelling ground to grant bail to the petitioner. Accordingly, the petition is dismissed.

9. It is clarified that any observation made in this order is only for deciding this petition and shall not influence the outcome of the trial and also not be taken as an expression of opinion on merits.

12.11.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No