



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

217

CRM-M-36647-2025 (O&M)

Date of decision: 18.07.2025

Samarjeet

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Sweta Beniwal, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. A.G. Haryana assisted by
ASI Ram Swaroop.

Mr. Raman Chawla, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in case FIR No.309 dated 22.10.2023 under Sections 120-B, 148, 149 and 302 of the IPC, registered at Police Station Siwani, District Bhiwani.

2. Learned counsel for the petitioner while drawing the attention of this Court to FIR in question, annexed as Annexure P-1, contends that the petitioner has been in custody since 20.12.2023 in a case based on eyewitness account. Learned counsel has submitted that a bare perusal of the FIR reveals that the complainant (brother of the deceased), on being telephonically intimated arrived at the spot and saw accused Vikas, Akshay, Sumit, Krishan, Praveen and 3-4 unknown persons, inflicting injuries on his brother (hereinafter referred to as 'deceased'), and thereafter fleeing away from the spot. Learned counsel



CRM-M-36647-2025 (O&M)

has further submitted that when the complainant reached the spot, the deceased was alive; the deceased was transported to the hospital by none other than the complainant and as per the complainant himself, the deceased, while on way to the hospital, disclosed the names of the abovementioned accused as being the persons who inflicted injuries upon him; he did not even by way of a whisper name the petitioner as being one of the attackers or being present at the scene of crime.

3. It has been further contended by the learned counsel that pertinently there were two video recordings of the occurrence in question collected by the investigating agency, and in both the video recordings, the petitioner is not visible which further lends credence to his false implication in the present case. Learned counsel has also submitted that strangely after two days of the registration of the FIR, a statement under Section 161 of the Cr.P.C. was recorded by the complainant as well as one Anil Kumar son of Inder Singh wherein for the first time, the name of the petitioner surfaced and it was alleged that he too had participated in the occurrence in question which is contrary to the documentary evidence (video recordings) collected by the police.

4. Learned counsel has asserted that a perusal of the FIR significantly reveals that it had nowhere been stated by the complainant that Anil Kumar son of Inder Singh was anywhere in the vicinity of the occurrence and hence, it further raises a big question mark about the statement recorded by this alleged eyewitness, Anil Kumar, under Section 161 of the Cr.P.C. Learned counsel has still further argued that while deposing before the learned Trial Court as PW-1, during his



CRM-M-36647-2025 (O&M)

cross-examination, the complainant categorically admitted that the petitioner was known to him for the past 5-6 years and hence, it is very strange that in case the petitioner was so very well acquainted with the complainant, as to how the complainant as well as the deceased (who was still alive when he disclosed about the participation of the co-accused to his brother i.e. the complainant), could have failed to mention him and mention about his presence at the time of the alleged occurrence.

5. Learned counsel has also submitted that even as per the case of the prosecution, motive to commit the murder has not been attributed to the petitioner but to the other five accused specifically named in the FIR, who had a long-standing enmity with the deceased since the year 2019. Learned counsel submits that in the circumstances, since the most material witness i.e. the complainant already stands examined, further incarceration of the petitioner would serve no useful purpose as 55 prosecution witnesses still remain to be examined.

6. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, have vehemently opposed the prayer and submissions made by learned counsel for the petitioner. Learned State counsel, on instructions, has not disputed the custody period of the petitioner nor has he disputed that the most material witness in the present case i.e. the complainant, who is also stated to be an eyewitness, has been examined; it has also not been disputed by learned State counsel as well as learned counsel for the complainant that during his cross-examination, the complainant had categorically admitted that the



CRM-M-36647-2025 (O&M)

petitioner was very well acquainted with him for the past 5-6 years. Furthermore, it has not been disputed that though it is a case of eyewitness account and the complainant as well as the deceased had specifically named all the five accused in the FIR in question, however, as far as the petitioner is concerned, he was not named in the FIR. Furthermore, learned State counsel, on instructions, has not disputed that in the CCTV footage as well as the video recording of the occurrence in question, which is part of the challan, the petitioner is not visible much less inflicting injuries on the deceased. Learned State counsel, however, submits that during investigation it came to light that the petitioner had provided logistic support in the form of weapon of offence and had also driven the vehicle to the place of occurrence. On further instructions, learned State counsel has not disputed that the petitioner has not been attributed any specific injury on the person of the deceased. Learned State counsel has, however, apprised this Court that the petitioner is a man of criminal antecedents as he is undergoing trial in 11 other cases under the IPC.

7. Learned counsel for the complainant submits that other than complainant, two other material witnesses are to be examined.

8. I have heard learned counsel for the parties and perused the material placed on record, including the FIR which stands reproduced hereinunder:-

“To, Incharge Police Post Jhumpa Kela, Sir, It is respectfully submitted that I, Anil Kumar son of Shri Kuldeep Singh, resident of Garwa, Tehsil Siwani, District Bhiwani, Haryana, am a resident of the aforementioned address. We were two brothers. My elder brother was Vikram Kumar. On 21.10.2023, at around 7:00 PM, my



CRM-M-36647-2025 (O&M)

*brother Vikram went out stating that Vikas son of Mandroop Singh, resident of Garwa, was celebrating his birthday and had invited him to the party. On 22.10.2023 at about 01:00 AM, I received a phone call from Sandeep son of Shri Dharampal, resident of Garwa, informing me that Vikram's vehicle was parked near the Jhinga Farm on the road to Suratpura, near the fields of **Vikas**, and that Vikram was being assaulted. Thereafter, I came to know that **Vikas** son of Shri Mandroop; **Krishan** son of Shri Sumer Jakhar, resident of Surpura; while keeping a grudge regarding a fight took place in the year 2019, **Krishan** son of Sumer resident of Surpura, **Sumit** son of Bhagwan Singh resident of Garwa; **Vikas** son of Mandroop resident of Garwa, **Praveen** son of Dilbagh, resident of Garwa; **Akshay** son of Maichand resident of Garwa; and 3-4 unknown persons, attacked my brother Vikram with intention to kill, using wooden sticks, iron rods, blunt weapons, and iron rods with sharp edges. As soon as I reached the spot, I saw all the accused fleeing from the spot. Thereafter, I, along with my brother Sombir son of Rajbir; Vikas son of Rajbir; and Rajbir son of Ganpat Ram, picked up my injured brother Vikram from the spot and proceeded to take him for medical treatment to Hisar. On the way, my brother Vikram narrated that **Vikas, Akshay, Sumit, Krishan, Praveen**, and 3-4 other unknown persons, due to old enmity, had jointly assaulted him with lathis, sticks, and iron rods with the intention to kill, and had badly beaten him. On reaching Hisar hospital, the doctors declared my brother Vikram dead. Therefore, I request that the murderers of my brother be given the strictest possible punishment, and justice be delivered to us. Sd/- Anil Kumar, complainant Anil Kumar son of Shri Kuldeep Singh, resident of Garwa, Tehsil Siwani, District Bhiwani Haryana. Mobile Nos.: 9518089780, 8607844454 Dated: 22.10.2023.”*

9. It is not in dispute that the case of the prosecution rests primarily upon the ocular account furnished by the complainant, who claims to be an eyewitness to the incident in question. Significantly, it is also not disputed by the learned State counsel that during cross-examination, the complainant unequivocally admitted to having known the petitioner for a period of 5 to 6 years preceding the occurrence in



CRM-M-36647-2025 (O&M)

question.

10. Despite such acknowledged prior acquaintance, the petitioner was neither named in the FIR as one of the persons involved in the attack on the deceased, nor was he alleged to have been present at or near the scene of the crime, let alone inside the car purportedly used during the commission of the offence. Further, the name of the petitioner does not find mention in the dying declaration made by the deceased to his brother.

11. Importantly, as per the case of the prosecution also, the petitioner was not harbouring any prior enmity with the deceased, which could suggest a motive. Moreover, it has not been denied by the learned State counsel, on instructions, that the presence of the petitioner is not discernible in both the video footages of the incident which form part of the record.

12. While the learned State counsel has asserted that the petitioner facilitated the commission of the offence by providing logistical support—namely, supplying the weapon of offence and transporting the co-accused to the scene—such allegations remain unsubstantiated at this stage. This is particularly relevant given that the key eyewitness, i.e. the complainant, has already been examined and no corroborative evidence has been brought on record to fortify the claim of the involvement of the petitioner in the preparatory aspects of the crime.

13. The petitioner has been in custody since 20.12.2023. The trial is likely to be protracted, as only 01 out of the 56 prosecution



CRM-M-36647-2025 (O&M)

witnesses have been examined so far. Given this stage of the proceedings, further incarceration of the petitioner would serve no useful purpose. As a sequel to the above, this Court deems it fit to extend the concession of bail to the petitioner.

14. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. The Court concerned shall impose stringent conditions as deemed appropriate to ensure the regular attendance of the petitioner on all dates of hearing, particularly in view of the fact that the petitioner is stated to be involved in 11 other criminal cases.

15. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

16. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

17. Pending applications, if any, stand disposed of.

18.07.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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