



223-4

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

CRR-1398-2024

Date of decision : 07.05.2025

Rohit @ Bundu @ Bund**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Akash Yadav, Advocate
for the petitioner.

Mr. Tanuj Sharma, A.A.G., Haryana.

Mr. Vinod Bhardwaj, Advocate and
Mr. Nipun Bhardwaj, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

1. Present Criminal Revision petition has been filed praying for setting aside the order dated 09.07.2024, whereby the bail application of the petitioner in case FIR No.119 dated 08.08.2023, registered at Police Station Titram, District Kaithal under Sections 148, 149, 323, 452, 506 and 306 of IPC, was declined. Further prayer has been made for granting the concession of regular bail to the petitioner in the said FIR.
2. The petitioner before this Court is a juvenile who is being tried by the Juvenile Court.
3. Succinctly, the facts of the case are that the FIR in the present case was lodged on the statement of complainant Sonu. It was alleged that on 06.08.2023 at about 8:30 pm, his younger brother Monu and elder brother Sandeep were present in their shop. It was alleged that at that time, Kapil, 'X' (petitioner), came on a motorcycle and raised lalkara. His



brother Sandeep tried to convince them and send them back. However, thereafter, Kapil, 'X', Kala, Golu, Vikram, Sumit, Amit and Judy along with 3-4 person came on 4-5 motorcycles. They started beating him and his brother Sandeep with sticks in their hand, which they were carrying. Sandeep rushed inside the shop and then Kapil, 'X', Golu, Kala started beating him with sticks inside the shop. He and his brother, Monu, with great difficulty could save his brother from those boys. They escaped from the place of occurrence along with their weapons on their respective motorcycles by threatening them to kill. He and his brother Monu admitted his brother Sandeep in the Government Hospital. On the way, his brother Sandeep told them that the boys had put some intoxicant poisonous substance in his mouth. His brother was initially admitted but thereafter he was referred to Kalpana Chawla Hospital, Karnal. It was alleged that all the accused as mentioned had beaten his brother Sandeep and threatened to kill them and they forcibly administered poisonous substance in the mouth of his brother. Hence, request was made to take the legal action against the culprits. The FIR was registered initially for the offence under Sections 148, 149, 323, 328, 452 & 506. However, Sandeep, thereafter died on 13.08.2023 and hence, offence under Section 302 IPC was added in the FIR. The petitioner was arrested on 19.08.2023. However, being juvenile, he was prosecuted under the provisions of Juvenile Justice Act and thus, tried by the Juvenile Court. He approached the Court of learned Principal Juvenile Justice Board, Kaithal praying for the grant of bail. However, after hearing both the sides same was declined vide order dated 30.09.2023. Aggrieved by the same, he assailed the said order by way of filing of appeal before the learned Additional Sessions Judge, Kaithal, however, the same was also declined vide order dated



02.11.2023. Hence, petitioner is before this Court by way of filing the present revision petition.

4. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that the case as registered by the prosecution would reveal that the petitioner along with the co-accused had given injuries with the sticks to the deceased. There was no allegations regarding the petitioner or any co-accused, that the petitioner had brought any poison along with them and thus, the allegation regarding administering the poison to the deceased is an afterthought. He submits that initially the FIR was registered for the offence under Sections 148, 149, 323, 328, 452 & 506, however, the offence under Section 302 IPC was added on 13.08.2023 on the death of the brother of the complainant, Sandeep. However, after investigation the challan was also presented for the offence under Section 306 IPC but the learned trial Court had framed the charges for the offence under Section 302 IPC. He submits that the petitioner is a juvenile who is behind bars since the date of his arrest i.e. 19.08.2023. It is submitted that if the charges are proved, the maximum sentence which the petitioner can be awarded is of 03 years, however, he has already undergone about $\frac{1}{2}$ of that sentence. It is submitted that the petitioner has no criminal antecedents and once it is debatable whether the offence in the present case is of 306 IPC or 302 IPC, the petitioner being juvenile, deserves to be granted bail.

5. Learned counsel for the complainant, on the other hand, however, has opposed the submissions made by learned counsel for the petitioner. It is submitted that the petitioner is specifically not only named in the FIR but he had played an active role. It is submitted that the deceased was dragged inside the shop and there all the accused had



forcibly administered the poison to him to which he succumbed during the treatment. They submit that no case for grant of bail to the petitioner is made out.

6. Learned State counsel also has opposed the submissions made by learned counsel for the petitioner and has drawn the attention of this Court to the status report filed. It is submitted that though the challan was filed for the offence under Section 306 IPC, however, from the attending facts and circumstances of the case, it was *prima facie* proved that the deceased was administered poison by the assailants to which he was succumbed. He, on instructions, has submitted that out of total 24 prosecution witnesses, 12 witnesses have been examined. He placed on record the custody certificate of the petitioner on record.

7. After hearing counsel for the parties and perusing the record, it is deciphered that the occurrence in the present case has took place on 06.08.2023 whereas the deceased succumbed to the injuries on 13.08.2025. The challan was presented for the offence under Section 306 IPC but it is the trial Court who has framed the charges for the offence under Section 302 IPC. Whether the offence committed is under Section 302 IPC or 306 IPC, is debatable. However, the Court cannot ignore the fact that the petitioner before this Court is a juvenile. The bail to the juvenile can be declined if there is apprehension that he is likely to come in the company of some criminals, however, this also cannot be ignored that the long custody of a juvenile behind bars is itself prejudicial to his future. Custody certificate produced would show that he has already completed an incarceration of 01 year 08 months and 16 days as on 06.05.2025. It further reflects that the petitioner has no criminal antecedents.



8. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present revision petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

07.05.2025
ps-I

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No