

CRM-M-60193-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60193-2024
Reserved on: 01.05.2025
Pronounced on: 13.05.2025

Piyush ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Manoj Kaushik, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
273	27.06.2022	SGM Nagar, District Faridabad	147, 148, 149, 323, 506 IPC (Sections 302, 120B, 201 IPC added lateron)

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are taken from status report dated 16.01.2025, which reads as follows:

“That brief fact of the case are that on 27.06.2022, the complainant Vikash moved a complaint to police, alleging therein that on 26.06.2022, he alongwith Deepak and Vinod were standing near liquor shop, NIT-3, meanwhile Amar Chand, Mangal, Golu, Chintu and 10 & 12 other persons reached there carrying iron rod, sword and Dandas in their hands and cause grievous injuries to Deepak with weapons carried by them. After considering him to be dead, all the assailants fled away from the spot giving threat that in case Deepak survived, he would be killed in future, where CCTV cameras have been installed. Complainant prayed for penal action against the accused persons. On these allegations, the

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present FIR No. 273/2022 was registered at Police Station SGM Nagar, Faridabad.”

4. Petitioner seeks bail on the following grounds:-

“1) That as per allegations of FIR, on 26.06.2022 at 07:00 PM, main accused Amar Chand, Mangal, Golu, Chintu, Gheta, Ramesh's son alongwith 10-12 other boys armed with Swords, Iron Rods, Dandas, attacked Deepak (now deceased/victim) because of some prior enmity with main accused Amar Chand & Mangal. Victim-Deepak suffered as many as 26 injuries (possibly cause by blunt weapons) Post Mortem Report is (Annexure R-2).

2) FIR no.273 dated 27.06.2022 was registered on the statement of Vikas/Complainant, but petitioner/Piyush is not named in the FIR; then on 30.06.2022, co-accused/ Shyam Babu (while in police custody) recorded his Disclosure Statement naming petitioner/Piyush as one of the accused who had also participated in the attack.

3. That then on 10.07.2022, Complainant (in consonance with Disclosure statement of co-accused Shay Babu) recorded his Supplementary Statement naming the petitioner, however petitioner was not named in the FIR nor in any Statement of any witness prior to recording of Disclosure Statement of co-accused Shyam Babu, but complainant has named the petitioner in supplementary statement after recording of disclosure statement of Sham Babu (Co-accused).

4) That Police has taken into possession the CCTV footage from a nearby place (which does not capture any incident of attack but it only shows some people running across that point where CCTV camera was installed). But petitioner is not actually visible in any CCTV footage, and police has wrongly stated some other person as petitioner/Piyush.

5) That Petitioner is absolutely not identifiably visible in any CCTV footage, although police claims that some person (who is neither armed & nor identifiable) is Piyush, but its incorrect.

6) That the petitioner (not involved in any other criminal case needs to be given benefit of doubt), especially because during petitioner's police Interrogation/custody NO Weapon is recovered from petitioner (neither any DANDA nor SARIYA etc could be recovered) which suggests that petitioner has been involved in this case merely on the basis of disclosure

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statement of co-accused which is followed by supplementary statement of complainant. Hence the same are not admissible in evidence unless corroborated by any other concrete evidence.

7) That petitioner was admittedly bare handed/ unarmed therefore it cannot be said that petitioner had participated in any alleged incident with an intention to cause murder. Furthermore the cause of death of deceased is collective effect of 26 injuries caused by Blunt weapons hence it would be debatable during trial whether this is a case of Culpable Homicide or Murder. Further petitioner cannot be attributed any of these injuries as he was admittedly unarmed (Bare Handed) & presence of petitioner is also highly doubtful as CCTV footage is not of the attack rather it has captured some persons running from one point to other and in that CCTV Footage also petitioner is not visible or identifiable.

8) That petitioner is a young boy of 21 years (he was an Engineering Student at the relevant time but his career has already been suffered/spoiled because of his custody in this case), petitioner is not involved in any other criminal case (except present case), and he has himself surrendered before Ld. Illaqa Magistrate on 13.05.2024, Challan is presented, No Recovery is effected from petitioner. Trial is at an initial stage as Charges have just been framed on 07.02.2025 against the petitioner (as he has been joined in the trial at a later stage after his PO order has been set aside vide order dated 20.12.2023 (Annexure P-3) and there are total 46 Prosecution Witnesses therefore trial will take a very long time to finalize. Hence petitioner deserves the benefit of doubt in absence of any incriminating material/evidence available on record.”

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

6. The State's counsel opposes the bail and refers to the following portion of the status report:-

“3. That after registration of the FIR, the investigation was set into motion. During investigation, CCTV footage of the occurrence was obtained into a pen drive on 28.06.2022, which was taken into possession.

x x x x

6. That during investigation on 30.06.2022, the accused named in FIR, namely, Shyam Babu @ Mangal and Sandeep @ Chintu were joined in the investigation and on finding sufficient evidence against them, both accused were arrested accordingly. They suffered their disclosure statement and confessed their guilt. In pursuance to their disclosure statements, they got demarcated the place of occurrence.

x x x x

25. That CDR of mobile numbers of accused persons, which were used by them during commission of offence, was obtained. As per CDR, the location of accused persons namely, Piyush (petitioner), Vikash @ Vikki, Raju Jaat etc. has been found at the place of occurrence.

x x x x

37. That in the present case, serious efforts were made to arrest co-accused Raju Jaat, petitioner/accused Piyush and Rahul Bangali but they could not be arrested, hence their arrest warrant were got issued but they could not be arrested, upon which their publication was got issued but they could not be arrested. Hence, vide order dated 17.10.2023, they have been declared proclaimed offender by Ld. Illaqua Magistrate, Faridabad. For want of father name and correct address of accused Rahul Bangali, his arrest warrant could not be issued. PO Challan against co-accused Raju Jaat and Piyush (petitioner) was prepared and submitted before the Court for consideration on 05.01.2024.

38. That though the petitioner/accused was declared PO on 17.10.2023 by the Ld. Judicial Magistrate Ist Class, Faridabad but vide order dated 20.12.2023, the Hon'ble Court quashed the said order in CRM-M No.64165 of 2023.

39. That the charge against the accused persons have been framed on 21.08.2023. It is pertinent to mention here that there are total 24 accused in the case, out of which 22 accused persons have been arrested and their challan has also been submitted on different dates. Now the present case is pending in the court of Ld. Additional Session Judge, Faridabad for 31.01.2025 for prosecution evidence. There are total 46 prosecution witnesses in the present case and out of which only 3 witnesses has been examined so far.

40. That on 29.06.2022, Deepak died due to injuries sustained by him. The copy of PMR is Annexure R-2. The petitioner/accused is seen in CCTV

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Footage of the occurrence while running towards the place of occurrence and returning from the place of occurrence.”

REASONING:

7. An analysis of the above arguments and counter arguments would lead to the following outcome.

8. Undoubtedly it is almost impossible to name 24 accused, however the petitioner's conduct of absconding and his arrest after great efforts is one circumstance which goes against him. In addition to that as mentioned in para 40, the petitioner was seen in CCTV footage of the occurrence while running towards the place of occurrence and returning therefrom. The petitioner was found present at the scene of crime. In this case the deceased had died because of assaults and given the nature of assault, it would be extremely difficult at this stage to pin point that which accused inflicted which injury, however the prosecution was launched of common object. Arguments addressed by the petitioner's counsel could not refer to any reason which would entitle the petitioner to bail. The arguments that petitioner is a young school going boy aged 21 years, are irrelevant when the offence is of 302 IPC and crime is of heinous nature. Thus, in the entirety of facts and circumstances, there is sufficient prima facie evidence in the shape of CCTV footage, location of petitioner at the spot which depicts petitioner's presence and another evidence is petitioner's conduct of absconding. Therefore the petitioner is not entitled to bail. However, considering that there are large number of accused in custody in the present case, trial Court is directed to expedite the trial on priority. It is further clarified that in case any of the accused who is on bail, tries to delay the trial, the trial Court to proceed to cancel their bail and State is also directed not to seek unnecessary adjournments.

9. The petitioner's custody of around one year cannot be termed prolonged, given the minimum sentence prescribed for the offense, which is imprisonment for life.

10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

11. **Petition dismissed.** All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

13.05.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.