

2025:PHHC:042582



214

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1041-2025
DATE OF DECISION: 27.03.2025

WASEEM ALIAS BASSI

...PETITIONER

VERSUS

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Saifuddin Shams, Advocate
Ms. Shabnam Shams, Advocate &
Mr. Ashish Ranja, Advocate for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

Mr. Karan Pathak, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

This petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer seeking grant of concession of regular bail to the Petitioner in a case F.I.R. No. 92 dated 05.04.2024 registered under section 148, 149, 302, 324, 341, 365 IPC at Police Station Nagina, District Nuh (Annexure P-1).

2. Prosecution story setup in the present case as per the version in the FIR as under:-

*To, The Station House Officer, Nagina Police Station Subject:
Application for registering a murder case against the accused.
Respected Sir, 1, the applicant, Hasan Mohammad, son of Sumer,*

belonging to the Meo community, resident of Village Balai, Police Station Nagina, District Nuh, respectfully submit that the following individuals: 1. Nadeem son of Farooq; 2. Farooq son of Hanif, 3. Iqbal son of Samsuddin; 4. Daraj; 5. Raffa alias Rafiq son of Ilyas; 6. Zakir son of Isab, 7. Haseen son of Farooq; 8. Mausim, son of Ibrahim; 9. Junaid son of Zakir, 10. Kaif son of Azad; 11. Fardeen son of Farooq, 12. Soyeb son of Imran; 13. Sahil son of Ibrahim, all residents of Village Balai, Police Station Nagina, District Nuh, and others committed a heinous act of murder. 1. On 05.04.2024 around 10:00 AM, I had gone to the Pinangwa market when I received a phone call from my village informing me that members of Farooq's family had clashed with my family, assaulted them, and pelted stones at our house. Police from helpline number 112 had also arrived at the spot. I asked the caller to stop the fight as I was on my way. Upon reaching Village Balai, I was informed that at around 10:00 AM, the aforementioned accused persons conspired together, armed with sticks, lathis, stones attacked our house. Farooq son of Hanif said "Finish the family of Sattar today; no member of their family should survive. Subsequently, all the accused persons attacked our family. In the incident, Arif son of Sattar was hit with a stick by Nadeem son of Farooq; Sakir, son of Sattar, was struck with a lathi by Iqbal son of Samsuddin. Thereafter, all the accused launched a violent attack, causing injuries to Sakir son of Sattar, Tohid son of Mustaq; Arif son of Sattar, Akbar son of Israel; Abrar son of Hasan-all residents of Village Balai and Mizan son of Naseem resident of Agon currently residing in village Balai. They sustained injuries and will describe their injuries in their own words. The fight stopped upon the arrival of the 112 police.11- Later, at approximately 2:15 PM, the aforementioned accused persons, armed with axes, lathis, sticks, knives, and other weapons, assembled together and forcibly abducted Uvesh son of Ash Mohammad, aged 21, a resident of Village Balai, Police

Station Nagina, District Nuh. They stabbed him to death with knife. A large crowd gathered at the spot, but the accused threatened to eliminate the entire family and fled the scene. I arranged for transportation and took Uvesh to the government hospital in Mandikhera, where the doctors declared him dead. Therefore, I request you to register a case against the aforementioned accused persons and take the strictest possible legal action against them. I shall be highly obliged. Date: 05.04.2024 Thanking you, Applicant: Hasan Mohammad, son of Sumer; Meo Community resident of village Balai, Police Station Nagina, District Nuh Mobile Number: 9813873713.'

3. **Contentions**

On behalf of the petitioner

The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case, solely on the supplementary statement made by the complainant. He further submits that the petitioner did not cause injury to the deceased or any member of the complainant party and no specific role has been attributed to the petitioner. He asserts that investigation is complete, challan stands presented and nothing is to be recovered from the petitioner.

On behalf of the State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He strongly opposes the prayer made in the present petition, asserting that the petitioner was nursing grudge against the complainant due to the fight occurred between both the parties on 05.04.2024 at 10 AM and as such he alongwith his co-accused persons namely Nadeem, Kaif, Haseen, Fardeen, Junaid, Iqbal,

Mosim, picked up Uvesh (since deceased) and took him to their shop. One of the co-accused, Nadeem, stabbed the deceased to death.

4. Analysis & Conclusion

In everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a prima facie opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in the light of self-imposed restrictions and the broader legal parameters outlined.

This Court is mindful that, according to the legal mandate rendered by Hon'ble Supreme Court in Criminal Appeal No. 3840 of 2023, titled "***Saumya Churasia versus Directorate of Enforcement, decided on 14.12.2023***", when considering a bail application, the Court is not obligated to meticulously examine the evidence gathered by the Investigating Agency. However, the Court must consider several factors, including the nature of the accusation, the type of evidence collected in support, the severity of the punishment for the alleged offences, the character of the accused, the unique circumstances surrounding the accused, the likelihood of securing the accused's presence during trial, the possibility of witness tampering, and the broader interests of the public or State. In the light of these factors,

when assessing a bail application, the Court is required to form a prima facie opinion based on these broad guidelines, without delving into the merits of the evidence, as doing so could potentially prejudice the rights of both the accused and the prosecution.

The present case involves the death of Uvesh. The petitioner has been connected to this case on the basis of supplementary statement suffered by the complainant. In the pen-drive containing the video-clip, the petitioner could be seen pelting stones from the roof of his house to those, who tried to save the deceased. Consequently, this Court is of the view that the petitioner actively participated in the commission of the offence. Hence, Section 302 of IPC, 1860 is made out against the petitioner. Keeping in view of the role and attribution to the present petitioner and the gravity of offence involved, he does not deserve the concession of regular bail at this stage.

No doubt the challan stands presented and charges have been framed but custody of 11 months 19 days suffered by the petitioner is not enough. This Court is sanguine of the fact that if the petitioner is enlarged on bail, there is every chance that he may hamper the trial and create a fear psychosis in the mind of other prosecution witnesses, who are yet to be examined and may give an impression in the masses that criminals may carry out such a heinous crime with impunity.

The Court while considering the bail petitions is conscious that personal liberty has to be weighed and balanced with

societal/public interest at large, and ensure that the course of justice is not thwarted by the powerful and influential accused persons.

In view of the discussions made hereinabove, this Court does not deem it a fit case to enlarge the petitioner on regular bail at this stage. Hence, the present petition stands dismissed.

(SANDEEP MOUDGIL)
JUDGE

27.03.2025

Sham

Whether speaking/reasoned Yes/No

Whether reportable Yes/No