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

**CRM-M No.13134 of 2020
Date of Decision: 21.08.2020**

DAVINDER SINGH @ JINDER

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. D.A.G., Punjab.

Mr. Ankur Bansal, Advocate
for the complainant.

RAJ MOHAN SINGH, J.(Oral)

[1]. The case has been taken up for hearing through video conferencing.

[2]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.30 dated 26.02.2020, registered under Sections 354/341/323/506/148/149/307/365 IPC and Section 3(1)(s) of SC & ST (Prevention of Atrocities) Act, 1989 at Police Station Adampur, District Jalandhar. The offence under Section 302 IPC was added later on vide order dated 31.07.2020.

[3]. The FIR was registered at the instance of Mrs. Parveen Kumari who is wife of elder brother of the deceased Ravi Pal. According to the prosecution version, on 25.02.2020 at about 10.00 a.m., complainant and her brother-in-law (Devar) Ravi Pal along with two daughters were going on motorcycle to parental village of the complainant. When they reached near a park at a distance of about 50/60 yards, then six persons namely Lucky, Raja, Sandeep Singh, Pammu and Jassa encircled them from both sides. Raja held the complainant from her shoulder and made her to fall from the motorcycle. He threw her on the ground after catching hold of her hair. He started giving beatings to her and also attempted to molest her. Jassa gave a datar blow on the head of Ravi Pal. Ravi Pal fell down and thereafter all the assailants gave them beatings mercilessly and also uttered derogatory words in the name of their caste. On hearing alarm, devarani of the complainant namely Rekha Rani came there to save them. The assailants gave beatings to her also. On seeing many persons, the assailants fled away after riding on the motorcycles of 5-6 unknown persons. Villagers got them admitted in Civil Hospital, Adampur. Ravi Pal was critical and was referred to Civil Hospital, Jalandhar. FIR was registered on 26.02.2020.

[4]. Learned counsel for the petitioner submitted the following points:-

- (i). That the petitioner is not named in the FIR, nor any role has been attributed to him. He has not been shown armed with any weapon nor has participated in the occurrence in any manner.
- (ii). The complainant Parveen Kumari though alleged in the FIR that there were six assailants, who encircled them from front and backside, however she gave names of only five persons.
- (iii). Mrs. Parveen Kumari has not given any version in respect of incident dated 24.02.2020, despite the fact that the FIR came to be registered on 26.02.2020.
- (iv). Ravi Pal died on 29.02.2020 and the offences under Sections 302 and 307 IPC came to be incorporated.
- (v). Recoveries of weapons were effected from co-accused Jaspreet Singh @ Jassa and juvenile Rajinder Singh @ Raja. Supplementary statement of the complainant Mrs. Parveen Kumari was recorded on 01.03.2020. In her supplementary statement, she made modifications in her version thereby deposing that on 25.02.2020 accused Jaspreet Singh @ Jassa was armed with datar. Rajinder Singh was armed with Bala.

In front of her, Rajinder Singh @ Raja dealt Bala blow on the head of Ravi Pal and on account of that blow Ravi Pal died subsequently. She also disclosed that the accused had earlier also on 24.02.2020 gave beatings to Ravi Pal and Varinder Singh @ Bindu due to some suspicion regarding theft of wires. On that day, both the parties assembled in the Police Station and were let off by the Police.

(vi). In the said supplementary statement, the complainant did not name the petitioner, nor any overt act was attributed to the petitioner qua the incident dated 25.02.2020. She only renamed the persons, who were named in her earlier version.

(vii). For the first time on 27.02.2020, Rekha Rani widow of deceased Ravi Pal named the petitioner as one of the accused, but she has also not assigned any specific role to the petitioner. ASI Surinder Pal after recording statement of injured Rekha Rani wife of Ravi Pal arrayed Manjit Singh, Davinder Singh and Rupinder Singh as accused vide rapat No.39 dated 27.02.2020. No specific role was assigned to the petitioner. Rekha Rani is not an eyewitness as per prosecution case. She reached the place of occurrence subsequently and

thereafter she intervened and received injuries on her person.

(viii). In the challan submitted by the Special Investigating Team, there is no specific role attributed to the petitioner. Only incriminating allegation is that the prosecuting agency has made the occurrence dated 25.02.2020 in continuity with the occurrence dated 24.02.2020. There is no formal complaint made by either of the parties in respect of occurrence dated 24.02.2020. Only one injury was found on the head of deceased Ravi Pal which was attributed to Jaspreet Singh @ Jassi in the FIR. In the supplementary statement, injury has been assigned to juvenile Rajinder Singh @ Raja. Recovery of datar has been effected from Jaspreet Singh @ Jassi on 03.03.2020. In the investigation of the Police, the presence of petitioner was found at the spot on 25.02.2020, but he did not give any blow to the deceased.

[5]. Learned State counsel has filed status report by way of affidavit of Harinder Singh, PPS, Deputy Superintendent of Police, Sub Division, Adampur, District Jalandhar (Rural) on behalf of the respondent/State. The same is taken on record.

[6]. In the status report, it has been mentioned that the

Special Investigation Team also found during investigation that on 25.02.2020, petitioner was present at the time of occurrence, but he did not cause any injury to Ravi Pal, nor participated in the occurrence.

[7]. Learned counsel for the complainant however opposed the prayer for grant of regular bail on the ground that both the occurrences i.e. occurrence dated 24.02.2020 and 25.02.2020 are in continuity with each other. On 24.02.2020, the beatings were given to the deceased Ravi Pal along with Varinder Kumar @ Bindu and Rajan Kumar (scrap dealer). No complaint was moved before the Police in respect of said occurrence.

[8]. Having heard learned counsel for the parties, I find that the role of the petitioner in both the occurrences would be debatable. In respect of occurrence dated 24.02.2020, there was no complaint moved before the Police. In respect of occurrence dated 25.02.2020, no role has been assigned to the petitioner, except to allege his presence at the spot. Prosecution version is only in respect of continuity of both the occurrences dated 24.02.2020 and 25.02.2020, which shall be debatable as regards complicity of the petitioner on the basis of incriminating material collected by the Police.

[9]. Challan has already been presented, but charges have not been framed so far. Petitioner is in custody since 28.02.2020. Due to the situation arising out of COVID-19

pandemic, there is possibility of further delay in conclusion of the trial.

[10]. Taking into consideration of the aforesaid facts and circumstances and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

[11]. In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

[12]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

August 21, 2020
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No