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

**CRM-M No.16936 of 2020
Date of Decision: 16.07.2020**

Mahabir

.....Petitioner

Vs

State of Haryana

.....Respondent

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

Present: Mr. Rajesh K. Sheoran, Advocate
for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.272 dated 23.11.2019 registered under Section 302 read with Section 34 IPC at Police Station Badhra, Charkhi Dadri.

FIR was registered on the statement of Narender son of Subhash Chander with the allegations that on 22.11.2019, there was a marriage of Amit and Puneet sons of Mewa Singh. Barat went to the house of the bride. Complainant and his cousin Kuldeep were also invited. Parveen son of Sher Singh also came in the barat. Sajjan was owner of the DJ and pick up dala

who came in the barat along his brother Balwan and maternal brother Ramesh @ Fauji. Mahabir (petitioner) also came in the barat. While dancing on the DJ floor some altercation took place between Parveen on the one hand and Sajjan, Balwan, Mahabir (petitioner) and Ramesh @ Fauji on the other hand. The matter was resolved by the complainant and Kuldeep. After taking food, complainant along with Kuldeep and Parveen reached near the cars in front of school, where barat was staying. In the meanwhile, Sajjan, Balwan, Mahabir (petitioner) and Ramesh @ Fauji came there in pick up dala and were duly armed with Dandas in their hands. They started beating Parveen due to which Parveen fell down. When the complainant and Kuldeep tried to rescue Parveen then all of them were beaten by the accused party. Sajjan Singh was driver of the pick up dala. Other assailants exhorted that Parveen be run over by pick up dala. Sajjan Singh struck pick up dala against Parveen who was already in falling condition. He ran over the pick up dala over the body of Parveen by moving the vehicle forward as well as in reverse direction. The tyre of pick up dala crossed the head of Parveen due to which his head got burst. Parveen died on account of injuries on his person. With these allegations, FIR came to be registered.

During investigation, complainant as well as alleged

eye-witness Kuldeep filed their affidavits thereby exonerating Mahabir (petitioner), Balwan and Ramesh @ Fauji. Prosecution believed the affidavits of the complainant and Kuldeep to the extent of exonerating Balwan and Ramesh @ Fauji in the report under Section 173 Cr.P.C, but filed challan against the petitioner and Sajjan. According to learned counsel for the petitioner, it is a case of believing affidavits qua co-accused Balwan and Ramesh @ Fauji and disbelieving the same qua the petitioner, particularly when the role attributed to the petitioner cannot be presumed to be over and above the persons who have been found innocent by the complainant and eye-witness. Petitioner is not the driver of the pick up dala. Petitioner is in custody since 27.11.2019.

Per contra, learned State counsel has submitted that keeping in view the gravity of the offence, the petitioner is not entitled to any discretion as the fight took place in a marriage party, when all the persons were dancing on DJ floor and in the first altercation, all the assailants participated, but the same was got patched up by the complainant and eye-witness Kuldeep. In the subsequent occurrence, all the assailants came at the spot near the cars of the complainant party and exhorted for running over the pick up dala over the body of Parveen.

Having heard learned counsel for the parties, at this

stage, it can be appreciated that the role of the petitioner cannot be segregated over and above the role of the co-accused Balwan and Ramesh @ Fauji, who have been found to be innocent by the prosecution. Due to pandemic Covid-19, after filing of the challan, trial has not progressed so far. Petitioner is in custody since 27.11.2019. The trial of the case may take sufficient time in its culmination.

For the reasons mentioned hereinabove and without meaning anything on merits of the case, I deem it appropriate to enlarge the petitioner on regular bail on his furnishing adequate bail bonds and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

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

16.07.2020

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No