

**219 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH****CRM-M-1774-2021****Date of decision-09.02.2021****Amit****....Petitioner****Vs.****State of Haryana****...Respondent****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Sandeep Lather, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

**\*\*\*****MANOJ BAJAJ, J.**

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.78 dated 20.04.2020 registered under Sections 302, 120-B and 34 Indian Penal Code, 1860 at Police Station Bahu Akbarpur, District Rohtak. The petitioner is in custody since his arrest on 26.04.2020.

The FIR was registered on the statement of Jitender son of Jasbir, wherein it was stated that when complainant went for a walk along with his brother, namely, Devender @ Deva, then Bittu, Dhari, Sachin, Kala and Patwari had altercation with Devender and they all threatened to kill his brother. In the evening, complainant was informed that Rajpal and Bittu are beating his brother. Complainant along with his father-Jasbir went at the spot, where they found that Rajpal and Bittu were beating Devender (victim) with binda. On seeing the complainant and his father, the accused ran away and when complainant saw his brother, he had died. According to the complainant, Devender was murdered on the instructions of Dhari, Sachin,

Kala and Patwari. On these broad allegations, FIR was registered.

Learned counsel for the petitioner has argued that the complainant has levelled allegations against accused Rajpal and Bittu, who assaulted his brother-Devender and the petitioner was not named in the FIR. He submits that apart from Bittu and Rajpal, the other accused, namely, Dhari, Sachin, Kala and Patwari were also involved in the crime as the occurrence took place on their instructions. According to learned counsel, statement of father of the victim was recorded on the next day of the occurrence, who narrated the presence of co-accused Pulkit at the place of occurrence and on the disclosure statement of the said accused, the petitioner has been indicted as an accused. He submits that as per prosecution, the petitioner raised exhortation whereupon the assailants attacked the victim and the case of the prosecution qua the petitioner is based on comparatively weak evidence. He submits that the investigation of the case is complete, therefore, the petitioner be released on bail during the pendency of the trial.

On the contrary, learned State counsel assisted by SI Sukhbir has opposed the prayer on the ground that the case of the prosecution is based on the evidence of eye-witness, who is brother of the victim. He submits that according to the complainant, the present occurrence took place in order to take revenge of previous altercation between Devender and Rajpal & Bittu. However, it is not disputed by learned State counsel that investigation of the case is complete and the final report stands filed on 13.07.2020. He has further produced custody certificate dated 08.02.2021, filed by way of affidavit of Sewa Singh, Deputy Superintendent, District Prison, Rohtak, which reveals that petitioner is not involved in any other case.

After hearing the learned counsel for the parties, this Court finds that the investigation of the case is complete, however, charges are yet to be framed and the material witnesses are either the close relatives of the victim or the police officials and there does not seem to be any possibility of their being won over. Admittedly, the petitioner is presently confined in judicial custody after his arrest on 26.04.2020, therefore, this Court is of the opinion that his further detention may not be necessary for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

09.02.2021

vanita

Whether speaking/reasoned :

Whether Reportable :

Yes

Yes

(MANOJ BAJAJ)

JUDGE

No

No