

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Criminal Misc.-M No.18994 of 2021

Date of Decision: August 12, 2021

Dharmender @ Kala

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Akashdeep Singh, Advocate,  
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

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**MANOJ BAJAJ, J. (Oral)**

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, under Sections 302, 120-B and 34 IPC, 1860, registered at Police Station, Bahuakbarpur, District Rohtak, who is in custody since his arrest on 25.04.2020.

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 as per the allegations contained in the FIR, victim Devender (deceased) was attacked by two persons, namely Rajpal and Bittu and the said occurrence was witnessed by his father also. He submits that according to the allegations, the assailants attacked the victim on the asking of co-accused, namely, Dhari, Sachin, Patwari and Dharmender @ Kala (petitioner). He has further submitted that the petitioner stands indicted on the strength of criminal conspiracy and, therefore, the case of the prosecution qua the petitioner is comparatively based upon weak nature of evidence. According to him, though the final report was filed on 13.07.2021, but even charges are yet to be framed. He prays for bail.

On the other hand, learned State counsel, assisted by SI Shamsher, has opposed the prayer on the ground that the petitioner was involved in the crime and the alleged occurrence took place on instructions of the petitioner and others. However, it is not disputed that the trial is yet to commence.

After hearing the learned counsel for the parties, considering the above background, custody of the petitioner and the fact that even the charges have not been framed, this court finds that the possibility of conclusion of trial in near future seems to be extremely bleak. Apart from it, the material witnesses are either close relatives of the victim or the police officials and, there does not seem to be any possibility of their being won over. Thus, the further detention of the petitioner behind the bars may not be

necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 25.04.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and 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/CJM/Duty Magistrate, Rohtak.

**August 12, 2021**  
**ramesh**

**( MANOJ BAJAJ )**  
**JUDGE**

**Whether speaking/reasoned**  
**Whether Reportable:**

**Yes/No**  
**Yes/No**