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

**CRM-M No.19530 of 2021(O&M)
Date of Decision: 25.05.2021**

Junaid

.....Petitioner

Vs

State of Haryana

.....Respondent

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

Present: Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

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

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.396 dated 14.05.2019 registered under Sections 148, 149, 323, 452, 364, 285, 302 IPC and Section 25 of the Arms Act at Police Station Nuh, District Nuh.

As per allegations, the complainant and others heard cries of Sakir and his wife Yasmin. Complainant, his wife, father and mother woke up and came out of the house and saw that 10-12 persons were pulling Sakir forcibly. Sapat, Junaid, Deenu,

Bashir, Rashid along with 5-6 unknown persons participated in that. When the complainant tried to rescue his brother, then the petitioner gave a blow on the left side of his neck with a pointed weapon. Petitioner gave second blow in the abdomen of the complainant from reverse side of the weapon. Other assailants also gave injuries to the sister-in-law of the complainant namely Yasmin and forcibly kidnapped Sakir in a vehicle. Complainant and others chased them. One of the assailant i.e. Sapat fell down from the vehicle at the chowk and was apprehended by the complainant party. Remaining accused succeeded in taking away Sakir forcibly while firing. They had come in two vehicles. Sapat was tied with rope at the chowk and the police was informed. Sapat ultimately died on account of injuries on his person.

FIR No.397 was registered on 14.05.2019 under Sections 148, 149, 307, 302, 365 IPC and Sections 25, 54, 59 of the Arms Act in respect of murder of Sapat. The said FIR was got registered at about 2:47 PM.

As per prosecution case, Sakir was thrown from the vehicle in village Kaithwada-Khoh road. The Police recorded the statement of one Khursid on 15.05.2019. When Sakir was alive, the police also prepared some video in which Sakir has disclosed something about the occurrence.

Deenu has been granted regular bail vide order dated 05.06.2020 passed in CRM-M No.12845 of 2020. Co-accused Akbar has also been granted regular bail vide order dated 28.08.2020 passed in CRM-M No.24045 of 2020. Imran has been granted regular bail vide order dated 08.03.2021 passed in CRM-M No.2237 of 2021.

Learned counsel for the petitioner submits that the alleged complicity of the petitioner based on some version recorded in the mobile phone of police personnel which on being transferred came in pen drive Cruzer Blade of 16 GB would be dependent at the threshold of Section 65(B) of the Indian Evidence being a secondary evidence. Petitioner is in custody since 06.09.2020.

Learned State counsel, however, opposed the bail on the ground that the petitioner is also involved in one more case i.e. FIR No.253 dated 26.06.2013 registered under Sections 148, 149, 323, 325, 506 IPC and the petitioner is on bail in that case. Challan has been presented, but charges have not been framed so far.

In view of aforesaid position, the complicity of the petitioner would remain debatable.

Looking to the aforesaid facts and in view of the

situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

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.

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

25.05.2021
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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No