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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.35964 of 2020 (O&M)
Date of Decision: 15.02.2021

YOGESH KUMAR @ BANTI

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ramnish Puri, Advocate
for the petitioner.

Mr. Rajat Gautam, D.A.G., 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.180 dated 12.07.2020 registered under Sections 302, 323 & 34 IPC (challan presented under Sections 323, 324, 304, 34, 506 IPC) at Police Station Kosli, District Rewari.

The FIR was registered at the instance of Satish Kumar with the allegations that on 11.07.2020 at about 11.30 P.M., he along with his uncle's son Sudesh Kumar and Naveen Kumar

went to the Hotel for dinner on a motorcycle. Three boys were already present in the Hotel and they were consuming liquor. There was a brawl between the parties on an issue of playing song in the Hotel. Those people and the complainant with his friends came out of the Hotel. There was a fight between them. One of the assailants attacked complainant with some object on his head and injured him. The complainant became unconscious. At the same time three boys had caught hold of his uncle's son (Sudesh Kumar) and gave him beatings. After hitting the complainant with a stone, Deepak started running away. Two others also gave beatings to Sudesh Kumar and he was bleeding. The assailants ran away from the spot. The complainant could not see them and it was Sudesh Kumar (i.e. uncle's son) who could tell about the injuries received by him. The complainant took Sudesh Kumar for the treatment on his bike and the bike ultimately met with an accident and the injured fell from the bike and lost his consciousness. He was declared dead in the Hospital.

Learned counsel for the petitioner submitted that no weapon has been recovered from the petitioner. Petitioner is not the author of injury No.1 which was found to be not consistent with road side incident. Remaining injuries No.2 to 15 were found to be on the pattern of distribution of injuries consistent

with the history of road side accident. Similarly injuries No.18 to 22 were also found to be consistent with the history of road side accident. Even in the statements of Sandeep and Ravinder (Annexures P-1 & P-2 attached with the petition) no specific role has been attributed to the petitioner.

Learned counsel further submitted that initially the FIR was registered under Section 302 IPC, but challan was submitted under Sections 323, 324, 304, 34 and 506 IPC. Petitioner is in custody since 13.07.2020. Complainant as well as Sudhir have not supported the case of the prosecution and despite their cross-examinations, nothing incriminating could be extracted from their testimonies. Wife of the deceased i.e. Munesh Devi has also executed an affidavit to the effect that the deceased had died on account of injuries suffered by him by falling from the motorcycle.

Learned State counsel on instructions from Inspector Shiv Charan and ASI Surender submitted that in the CCTV coverage the deceased was breaking the glass of the Hotel with a brick and got injured his hands and at that time accused were not seen in the footage.

At this stage without meaning anything on the merits of the case and in view of the situation arising out due to COVID-19 pandemic, 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.

February 15, 2021

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No