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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M No. 43001 of 2020****Date of decision: 09.09.2021****Shankar****...Petitioner****Versus****State of Haryana****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Partap Singh, Advocate, for the petitioner.
Mr. Tapan Kumar, Deputy Advocate General, Haryana.

(Presence marked through video conferencing).**ARUN MONGA, J. (ORAL)**

This is third foray of petitioner before this court, seeking regular bail in FIR No. 438 dated 21.06.2017, registered under Sections 302, 201, 216, 341, 379-B, 506, 120-B/34 IPC at Police Station, Samaklha, District Panipat, having got the first petition bearing CRM-M-No.49914 of 2018 dismissed as withdrawn on 11.01.2019, whereas in second petition bearing in CRM-M No. 22184 of 2020, the petitioner was granted interim bail on medical grounds for a period of four weeks vide an order dated 28.08.2020.

2. Per prosecution, on 20.06.2017, when Surinder alias Tulli (since deceased) was going to his fields petitioner/accused, Shankar armed with iron angle along with co-accused, Abhay armed with iron rod and Inder armed with iron pipe, all together waylaid the deceased. Allegedly, Abhay inflicted a blow on his left knee with the iron rod, petitioner gave a blow with iron angle hitting him below his knee and co-accused Inder gave two continuous blows below his knee. Resultantly, when he fell down, petitioner

then hit him on his head near upper side of his left ear with iron rod. All the accused also kicked the deceased before leaving the spot and also snatched his phone, Rs. 4,000/- and his Aadhar card. On hearing the cries when uncle of the deceased reached the spot, the assailants decamped by proclaiming that they had taught deceased a lesson. The deceased (then injured) was hospitalised, however, he succumbed to the injuries caused by the assailants. FIR was registered and all the accused were arrested.

3. Learned counsel for the petitioner submits that the petitioner is in custody since 28.06.2017 i.e. almost 4 years two months though, in between, on medical grounds he was granted interim bail by this Court only for a period of four weeks. The petitioner did not misuse the interim concession earlier and there is no reason why he would do so if released on bail during trial, argues the counsel.

4. Counsel further submits that there is no likelihood of petitioner influencing any material witnesses as they have already been examined. He states that complainant Dalbir Singh and independent witness Sultan Singh have been examined as PW1 and P2, respectively. Besides PW3 Constable Sunil and PW4 Dr. Deepak Bhardwaj too have been examined.

5. Learned counsel for petitioners seeks parity with all other co-accused, namely, Jai Parkash, Vinod, Inder Dev and Raunak who have been granted bail by a co-ordinate bench of this Court vide separate orders annexed as P-3, P-4, P-5 and P-6, respectively. He submits that no useful purpose would be served by keeping the petitioner in preventive custody any more.

5. Learned State counsel, however, opposes the bail plea. He submits that petitioner may try to influence the witnesses since the matter is of serious nature. There is every likelihood that he may even abscond.

6. I have heard respective rival contentions of learned counsels.
7. The argument of the learned State counsel that the petitioner is likely to influence the witnesses and/or abscond during the pendency of the trial, *prima facie* does not seem to be tenable since, concededly, material witnesses have already been examined. Recording of the statements of the rest of the official witnesses will still take some time.
8. The petitioner is in custody since 28.06.2017.
9. The pending trial is not likely to conclude anytime soon as the Courts are currently functioning under certain restrictions caused by COVID-19 pandemic and till outcome thereof, to keep the petitioner in custody merely on the ground of apprehension of absconding, seems to be improper and unfair at this stage. The petitioner when granted interim bail concession earlier, surrendered himself on completion thereof.
10. Considering the overall scenario, coupled with prolonged detention of more than four years already undergone, without commenting on the merits of the case, this petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
11. Accordingly, petitioner is directed to be released on bail, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case trial Judge is not available, before learned duty Judge, as the case may be.

09.09.2021

vs

(Arun Monga)

Judge

Whether speaking/reasoned :**Yes/No****Whether reportable :****Yes/No**