

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

**Criminal Misc. No.M-4308 of 2022(O&M)
Date of Decision: December 19, 2022**

Rajat @ Toni

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Lalit Narang, Advocate
for the petitioner.

Mr.Aman Bahri, Addl.AG, Haryana.

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HARINDER SINGH SIDHU, J.

Rajat @ Toni - petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.113 dated 24.04.2020 under Sections 323, 34, 379B, 506 IPC (Sections 302, 325, 201 IPC added later on), Police Station Industrial Area, District Bhiwani, Haryana.

The FIR was lodged on the complaint of Sikandar son of Devender. He stated that he was a Bank Manager in the HDFC Bank. His friend Vikas Gaur, who was living in Karnal had come to Bhiwani some days prior to the date of the incident. On 21.04.2020, the complainant was with his friend Satender @ Billu, who was also working in the HDFC Bank. Vikas Gaur called the complainant. He stated that he was staying at Gaur Guest House, Bhiwani which belonged to his brother Rakesh Gaur. He asked the complainant to come to the said hotel, whereupon, the

complainant and Satender went to Gaur Guest House in the car of the complainant. There, the complainant, Satender and Vikas had meals together. Satender went to a room in the hotel to rest. Vikas also went outside. After some time, the complainant heard noise of some arguments, whereupon, he noticed that Vikas was arguing with Devender, who was a friend of Tony. Tony was the nephew of Rakesh Gaur, the owner of the hotel. The petitioner asked them not to quarrel. Meanwhile, Tony (petitioner) the nephew of Rakesh Gaur came there along with one Prem @ Chamoli, who was also working in the hotel. Tony was carrying a baton. Tony started hitting the complainant with the baton. Devender and Prem @ Chamoli started kicking and giving fist blows to the complainant. Tony caused injuries on the elbow of the left hand and head of the complainant using the baton causing him to fall down. The complainant was rescued by Vikas. Then Tony told the complainant that as he (complainant) was his uncle in relationship so they were on the same side and that he should not interfere. Thereafter, Prem @ Chamoli told Tony that friend of the complainant was sleeping in the room. Tony, Prem @ Chamoli and Devender went to the room, where Satender was sleeping and caused him injuries. They forcibly brought him down. When Satender was lying down, Tony (petitioner) inflicted baton blows on his head. Satender became unconscious. Then all three – Tony, Prem @ Chamoli and Devender continued attacking Satender with baton, kicks and punches and caused lot of injuries to him. They also snatched phone of the complainant and forcibly took Rs.2500/- from the pockets of the trousers of the complainant and Rs.11,000/- from the pockets of the trousers of Satender. They forced the

complainant and Satender to go naked and prepared their video. Thereafter, they went away. While going away, they threatened the complainant that in case they lodged a complaint to the Police, they would be killed and the video would be made viral. Before going away they returned the mobile phones of the complainant and Satender. The complainant took Satender to Kadam Multi-Speciality Hospital where they both were admitted. Satender was later admitted in Narayana Hospital, Gurugram where he died on 27.04.2020. Initially, the case was registered under Section 323/506/34/379B IPC. After the death of Satender offence u/s 302 was added.

Mr. Narang, Ld. Counsel for the petitioner has contended that after the alleged incident, at the time of admission in Kadam Hospital, Bhiwani, the hospital was informed that they had sustained injuries in a roadside accident. This was so recorded in their Bed-head tickets as well. They were also found to have consumed alcohol. The complainant Sikandar had specifically stated that he had sustained injuries due to his own mistake and does not want any police action. It is argued that though the MLR states that the deceased was fully conscious and well-oriented, but despite that he never disclosed regarding the assault on him. The information about assault was given to the doctor by Ashok Bhardwaj, brother of the deceased. Neither the deceased nor the complainant ever disclosed that they had been assaulted as alleged in the FIR.

Mr. Bahri, Ld. Additional Advocate General, Haryana has argued that as per the allegations in the FIR, the specific injury on the head of the deceased with a baton after which he became unconscious has been attributed to the petitioner (Rajat @ Tony). The Post Mortem Report

reveals that the cause of death was 'Head injury following ante mortem blunt force impact'. It has been stated in the report u/s 173 Cr.P.C. that the scene of the crime was inspected on 30.04.2020 and parcels of blood found from the spot were taken into police custody. Even the dusters used for wiping blood from the room have been recovered from co-accused Prem. In the light of this, the argument of the petitioner that it was a case of Road Side Accident and not one of assault at Gaur Guest House is falsified. The batons allegedly used in the incident by the petitioner and his co-accused are also stated to have been recovered.

Further, during trial the complainant Sikandar has deposed as PW3, wherein, he has reiterated the version in the FIR. He has specifically stated that the accused persons including the petitioner went to the room where Satender was sleeping. He was dragged out and caused repeated injuries with batons. The clothes of the complainant and the deceased were removed and their nude video was prepared. The injured were threatened that if they go to the Police, their video will be made viral. The complainant took injured Satender to Kadam Hospital, Bhiwani, where they both were admitted. He stated that next day, his surgery was done in that hospital due to hand injuries. He further stated that *“due to threat given by the accused to viral the nude video and threat to kill us, I did not disclose the real facts to doctors and anyone.”* From there, Satender was taken by Sachin and his family members to Narayana Hospital. Said Sachin has also been examined by the Trial Court as PW4. He stated that Satender had told him on 24.04.2020 *“that we proceed to Gurugram Naryana Hospital from Bhiwani in an ambulance that I was innocent and Devender, Toni and Chamoli*

caused injuries to me with batons.”

Thus, the main eye-witnesses have already been examined and they have supported the prosecution version.

In view of above, there is no ground to grant bail to the petitioner, at this stage.

Dismissed.

December 19, 2022

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No