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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.5840 of 2021 (O&M)

Date of decision: 10.01.2022

Balinder @ Baljinder

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

Mr. Partap Singh, Advocate
with Mr. R.S. Dhull, Advocate for the complainant.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.958 dated 01.12.2015, for offence punishable under Sections 148, 149, 302, 506 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Civil Lines, Karnal, District Karnal.

Counsel for the petitioner, at the very outset, has argued that as per the allegations in the FIR, the main injuries are attributed to co-accused Rajesh and Vicky @ Manoj, who gave sword blow to the deceased whereas no specific injury is attributed to the petitioner except that he was part of the unlawful assembly, which has caused injuries to the victim.

Counsel for the petitioner has relied upon the order dated

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06.02.2018 passed in CRM-M No.42495 of 2017, vide which the aforesaid co-accused Rajesh was granted the concession of regular bail noticing the fact that he is attributed an injury on the right side of the head, which was not found to be fatal, however as per the medical opinion, it is a cumulative effect of the injuries which has resulted into the death of the deceased.

Counsel for the petitioner has also referred to the order dated 23.03.2018 passed by the Co-ordinate Bench of this Court in CRM-M No.9037 of 2018, vide which Vicky @ Manoj is also granted the concession of regular bail. A perusal of the said order show that it was argued that there is likelihood that Rajesh and Vicky @ Manoj may try to hamper with the evidence, however, the concession of regular bail was granted to Vicky @ Manoj.

Counsel for the petitioner has further referred to the orders dated 07.11.2016, 14.02.2017, 06.03.2017, 13.07.2017, 29.08.2017, respectively passed by the Co-ordinate Bench of this Court in CRM-M Nos.28511, 24718 of 2016, 307 of 2017, 42859 of 2016, 43343 of 2016, 45532 of 2016, 15207 of 2017, 17055 of 2017, vide which the co-accused of the petitioner namely Amit @ Mitta, Rajbir, Sanjeev @ Manu @ Hooka, Sandeep, Kulwinder Singh, Gaurav, Vijender @ Bijender @ Om and Satish, have been granted the concession of regular bail.

Counsel for the petitioner has further submitted that it is only the petitioner, who is in custody and all the other co-accused including those, who have caused fatal injuries, have been released on bail. It is further argued that since the petitioner could not be arrested and remain absent for a long period, his bail application has been

dismissed.

Counsel for the State has filed the Custody Certificate today in the Court and has not disputed the factual position but opposed the prayer for bail. It is further submitted that as per the Custody Certificate, the petitioner is in custody for the last 01 year, 06 months and 05 days, however, he is involved in some other cases under Sections 323, 325 IPC and in 02 cases registered under the Arms Act, 01 case under Section 42 of the Prisons Act, 02 cases under Section 174-A IPC and 01 case under Section 138 of the Negotiable Instruments Act.

Counsel for the State has lastly argued that out of 21 PWs, only 03 PWs have been examined so far.

Counsel for the complainant has submitted that the petitioner is extending threats to the prosecution witnesses, however, on a Court query, neither the counsel for the State nor counsel for the complainant point out that on account of extending any threat to any of the witnesses, the complainant side has given any application to the police authorities in this regard, needless to say that the petitioner was not arrested for a period of 05 years and even there is no allegation during that period, he has extended any threat to the witnesses when the trial was going on for the remaining co-accused.

After hearing the counsel for the parties, considering the fact that the petitioner is in custody for the last 01 year, 06 months and 05 days; the co-accused of the petitioner have already been released on bail; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on

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bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

**(ARVIND SINGH SANGWAN)
JUDGE**

10.01.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No