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

**CRM-M-39108-2021 (O&M)
Date of Decision: 10.05.2022**

Dalbir Singh

.. Petitioner**Vs.**

State of Haryana

..Respondent**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Arvindpal Singh, Advocate for the petitioner.
Mr. Sukhdeep Parmar, DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

The petitioner has filed the present petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.117 dated 10.05.2020 registered under Sections 147, 148, 188, 302, 323 and 506 IPC, 1860 at Police Station Agroha, District Hisar, who is in custody since 13.05.2020.

The above-said FIR was registered on statement of Ashok Kumar who alleged that on 09.05.2020 in the evening Ajay and his brother-in-law Pardeep came to him and he along with his cousin Amit, Ajay and Pardeep started drinking alcohol in the cricket ground. After sometime, Amit went home and came back on his motorcycle. Ajay made a phone call to Vinod who also reached there. Vinod parked his motorcycle near cycle stand. He along with Amit, Ajay, Pardeep and Vinod went to Jagat Palace Hotel in Verna car of Ajay. When they were sitting in the Jagat Palace Hotel, altercation took place between Amit, Ajay, Pardeep and Vinod and Ajay and Pardeep started abusing him, Amit and Vinod. Ajay gave 2/3 slaps to Ashok Kumar in anger due to which the altercation increased. Ajay and

Pardeep went in their Verna car after threatening them with dire

consequences. He, Amit and Vinod stayed at the hotel. At about 3:30 a.m. in the morning, Ajay, Ajay's uncle Ajmer, Ajay's father Mahabir and two other persons came in the Swift Car of Ajmer. Ajmer asked Vinod and Amit to come on one side. He, Amit and Vinod went towards petrol pump on their asking. As soon as they reached at the petrol pump, Ajay, Ajmer, Pardeep and Mahabir and two other persons took out lathies and dandas from their swift car and started beating them and inflicted serious injuries to Ajay and Vinod who fell down. Thereafter the accused fled from the spot. He called ambulance and took them to MAMC Agroha. Amit was shifted to Churamari Hospital, Hisar where he was declared dead.

Learned senior counsel has argued that as per prosecution, the accused and victim were consuming drinks when a quarrel took place and in the said occurrence, victim Amit (deceased) suffered three injuries, and the same were initially declared simple in nature as per the MLR, and the injured died on next day i.e. 10.05.2020. He submits that the complainant Ashok Kumar, who is the alleged eye-witness of the occurrence stands examined during trial, who has not supported the prosecution case and was declared hostile. He has produced the deposition of complainant-Ashok Kumar. Learned counsel has further drawn the attention of the Court to the bail orders of co-accused Pardeep Kumar and Ajmer Singh (Annexures P-7 and P-8) and submitted that as the material witness has been examined, further custody of the petitioner may not be necessary. He prays for bail.

Learned State counsel assisted by PSI Gurnimander Singh, while opposing the prayer has argued that the petitioner, who was armed with a stick (danda) gave blow on the head of victim, resulting in fracture and his death. He has argued that the doctor's opinion dated 24.06.2020

(Annexure P-6) is founded upon the MLR report only as the post mortem report was not considered, whereas the post mortem report contains the fact that skull of the victim was fractured. According to him, though the complainant has been examined, but another injured victim Vinod is yet to be examined and according to learned State counsel, this occurrence was also captured in a CCTV, wherein the petitioner is seen with a danda hitting the victim and other injured. According to him, the case is now coming up before the trial Court for recording further evidence on 20.05.2022.

At this stage, Mr. Lakhanpal, learned Senior counsel has argued that the CCTV footage relied upon by the prosecution shows that the victim was also armed with a weapon and was embroiled in the crime, who in fact is seen giving blows to the others and the petitioner was attempting to save himself.

Mr. Parmar, learned State counsel does not dispute this fact that Amit (deceased) is also seen in the said CCTV footage, who was hitting the accused persons.

After hearing the learned counsel for the parties, considering the above background, custodial period of the petitioner and the fact that the material witness has been examined and at present there does not seem to be any possibility of winning over the other witnesses, who are yet to be examined, therefore, further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody after his arrest.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

10.05.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No