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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50542-2021(O&M)

Date of Decision: 12.05.2022

Mahesh alias Fajjar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Johan Kumar, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J.(Oral)

CRM-17465-2022

The present application has been filed by the applicant-petitioner for placing on record the statements of prosecution witnesses as Annexure P-3 to P-5.

For the reasons mentioned in the application, the same is allowed and the statements of prosecution witnesses as Annexure P-3 to P-5 are taken on record.

CRM-M-50542-2021

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.141 dated 10.10.2020, registered under Sections 147, 148, 323, 506 IPC, 1860 and Section 302 IPC, 1860 added later on at Police Station Police Bhupani, District Faridabad.

The brief facts of the case are that one Sudesh-complainant got

recorded her statement to the effect that her younger son Anish had gone

out with his friend Sandeep on the night intervening 08/09.10.2020 and when he reached at New Railway Line, Uttam Colony, 5/6 persons one of whom was Mukesh alias Komal assaulted her son. As per her version, Sandeep, the friend of her son Anish, informed her about the occurrence, pursuant to which she got registered the present FIR.

The learned counsel for the petitioner submits that the petitioner was not named in the FIR but has been named in the disclosure statement of his co-accused Mukesh alias Komal. He further contends that the three main witnesses to the occurrence namely Sudesh-complainant (not eye-witness), Dharminder and Sandeep (eye-witness) have been examined as PW1, PW3 and PW-2. They have not supported the case of the prosecution and therefore, the petitioner deserves the concession of regular bail.

On the other hand, the learned State counsel vehemently opposes the bail application and referred to his reply to contend that the petitioner does not deserve the concession of regular bail because he is one of the accused named by the main accused Mukesh alias Komal and has also caused injuries to the deceased. He, however, does not dispute the factual position that the three material witnesses examined out of 25 witnesses stand examined.

I have heard the rival contentions of both the parties.

Admittedly, petitioner has been in custody since 08.03.2021. As many as 25 witnesses were cited by the prosecution out of which only 05 have been examined till date. The deposition of the three material witnesses has been placed on record as Annexures P-3, P-5 and P-4. None of these witnesses have supported the prosecution case. The Hon'ble

Supreme Court in **“Dr. Gokarakonda Naga Saibaba Versus State of**

Maharashtra, 2016(2) RCR (Criminal) 675 and this Court in “Devender Singh @ Devender Chhabra @ Tintu Versus State of Punjab, CRM-M-27957-2015 decided on 22.08.2016 has held that grant of bail can be considered, where witnesses stand examined.

Keeping in view the period of custody as also the fact that the material witnesses have turned hostile no useful purpose would be served by keeping the petitioner incarcerated. The trial is not likely to be concluded in the near future. As such, the further incarceration of the petitioner is not required.

Thus, without adverting to the merits of the case lest it prejudices either side, I deem it appropriate to enlarge the petitioner on regular bail.

Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

Nothing expressed hereinabove would be construed to be an expression of any opinion on the merits of the case.

(JASJIT SINGH BEDI)
JUDGE

12.05.2022
JITESH

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No