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

CRM-M-1194 OF 2023

DATE OF DECISION: 17.01.2023

Kuldeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Amit Chaudhary, Advocate,
For the petitioner.

Mr. Harish Nain, AAG, Haryana.

ARUN MONGA, J. (ORAL)

This is third foray of the petitioner before this court, seeking regular bail in case FIR No.95 dated 11.05.2019 registered under Sections 148, 149, 307, 324, 341, 506 IPC (Section 302 IPC added later on) at Police Station Barauda, District Sonipat. First bail petition bearing CRM-M-21062 of 2020 was though dismissed on merits on 09.10.2020, but second bearing CRM-M-7917-2021 was dismissed as withdrawn on 11.10.2021.

2. Per FIR, registered on the complaint of one Anil that on 11.05.2019 in the midnight he got to know that one Kuldeep (petitioner herein) had given a beating to one Prem. Said Prem asked him to accompany him to police station. Rakesh and Rajpal also escorted them on another motorcycle. When they were on way, 10-12 young boys armed with swords, bitte, gandasas, pistol in their hands, including Kuldeep (present petitioner), Ravinder, Anil, Niku Pandit, Chautala, Pammi, Deepak and Kala confronted Prem and threatened him to teach a lesson.

All of them started beating Prem with their respective weapons. Meanwhile, Rakesh and Rajpal also reached there and all the accused persons then fled away from the spot along with their respective weapons. He along with injured Prem was taken to hospital. Prem later succumbed to his injuries after 13-15 days of the occurrence. On the basis of statement made by injured/complainant Anil, formal FIR was registered and accused were arrested.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. There is no specific role attributed to the petitioner in the alleged FIR. The sword, allegedly recovered from the petitioner, did not have any bloodstains. The victim Prem died after 15 days of the alleged incident.

4. Learned counsel strenuously argues, relying on the testimony of the complainant Anil (star prosecution witness-PW-5), that even he has denied that it was the petitioner, who had caused injuries either to him or the deceased Prem. Said witness has even denied that he ever moved any complaint to the police against the petitioner.

5. On the other hand, learned State counsel appears and opposes the bail petition. He submits that petitioner is the main accused.

6. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

7. Petitioner is in custody in this case since 22.06.2019. Investigation is complete. There are total 32 witnesses out of which only 10 witnesses have been examined. Trial is still likely to take long time, whereas petitioner has already been languishing in jail for the past more than three and half years in preventive custody.

8. Petitioner is in custody, *inter alia*, for the apprehension that he may unduly influence or intimidate the witnesses to be examined. On a Court query, learned State counsel, under instructions, informs that the main witness i.e. complainant (another injured), namely, Anil has already been examined. He has indeed resiled from the prosecution version. Co-accused Deepak alias Goli, Deepak alias Vicky, Rohit and Amit were granted concession of regular bail by learned trial Court, whereas co-accused Vikash alias Nikku Pandit, Sumit and Parmeet alias Pummi were granted regular bail by this Court.

9. Co-accused of the petitioner have thus already been granted regular bail. Petitioner deserves parity with his co-accused at this stage.

10. Considering the overall scenario and without commenting on the merits of the case, the instant 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 ordered 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 he/she is not available, before learned Duty Judge, as the case may be.

JANUARY 17, 2022
Shalini

(ARUN MONGA)
JUDGE

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