HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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111-222-CRM-M-2351-2023

Date of Decision: 28.03.2023

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JOGA SINGH & ANR. ... Petitioners

VS.

STATE OF HARYANA ... Respondent

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CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

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Present: Mr. Partap Singh, Advocate for the petitioner

Mr. Ashok Kumar Sehrawat, DAG Haryana

Mr. Prateek Gupta, Advocate for respondent No.2

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Sandeep Moudgil, J. (Oral)

The petitioners seek regular bail in case FIR No.246 dated 07.05.2022 under Sections 148/149/323/506 IPC (Sections 324/325/326/307/365 IPC added later on), registered at Police Station Pundri, District Kaithal.

Learned counsel for the petitioners contends that petitioners were falsely implicated in the present case with an ulterior motive as the FIR has been got registered after a delay of 5 hours meaning thereby that the complainant took time for consultation and twisting the facts. The petitioner have joined the investigation and on their disclosure statement, two dandas were recovered from their possession. While no injury has been attributed to the petitioner No.1, as per the statement of the injured, petitioner No.2 gave a danda blow on the right of the injured which is simple in nature. It is stated that investigation in the present case is over and challan has been presented.

Notice of motion.

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On the asking of the Court, Mr. Ashok Kumar Sehrawat, DAG Haryana accepts notice. Mr. Prateek Gupta, Advocate has filed memo of appearance on behalf of the complainant which is taken on record.

Learned State counsel, on instructions from ASI Parveen, submits that the recovery of danda was effected from the possession of the petitioners, who were arrested on different dates in June, 2022. He also submits that since they were part of a large number of group, who attacked jointly, on the person of the injured Sukhwinder Singh, they do not deserve any concession of bail, at this stage.

Mr. Prateek Gupta, Advocate for the complainant moved an application on behalf of the complainant placing on record Annexures R1 to R3. Vide order dated 11.03.2022 (Annexure R1) passed in **CRWP No.2238 of 2022 (Muskan & Anr. Vs. State of Haryana & Ors.)**, protection was granted by this Court. Apart from that, photographs (Annexure R3 collectively) have also been placed on record to show the nature of injury suffered on the person of the complainant. He also states that the complainant is continuously facing threat at the hands of the petitioners and other co-accused and their family members to withdraw the case and the manner injuries have been inflicted on the person of the complainant, as is evident from the photographs (Annexure R3), show the criminal bent of mind of the petitioners who therefore, do not deserve any concession by this Court.

Be that as it may, considering the fact that the weapon used admittedly by the petitioners is danda and at best, can be said to have given blow with the blunt weapon which, in any manner, cannot be termed to have given the injuries as reflected in Annexure R3, collectively, and apart from

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the fact that the petitioners are behind the bars since June, 2022 and they are not required for custodial interrogation nor any recovery is to be effected from them and also the challan stands filed on 19.10.2022, and in view of the fact that the conclusion of the trial is likely to take long time and, therefore, no fruitful purpose will be served by keeping the petitioners behind bars, the petitioners are directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

As regards the petitioners' apprehension of facing threat at the hands of the petitioners and other co-accused, the same is not supported with any documentary or other evidence. Even otherwise, it is always open for the complainant to bring such facts before the court and seek cancellation of bail of any of the assailants.

The present petition is, therefore, allowed.

28.03.2023
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned? ***Yes/No***
2. Whether reportable? *Yes/No*

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