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

CRM-M-3070-2023

Date of decision : 11.05.2023

Vikas Vidhlan**.....Petitioner**

versus

State of Punjab**..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Naresh Gopal Sharma, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

*********RAJESH BHARDWAJ, J. (Oral)**

Prayer in the present petition is for grant of bail to the petitioner in case FIR No.105 dated 17.08.2022, under Sections 302, 323, 148, 149 of the Indian Penal Code, registered at Police Station Balongi, District Mohali.

Adumbrated facts of the case are that the statement of Dev Raj Sharma was recorded wherein he deposed that he had two daughters and three sons. His younger son is Bunty Sharma who was unmarried and was doing the finance business. On 16.08.2022 at about 09:30 PM, his son got a call from the mobile of Satnam Singh @ Nikku who told him that Ajay Patel, Parvesh Bawa and 10-12 unknown persons had beaten him near Rivel Kanal and asked him to come there. On receiving the phone call, his son Bunty went there, however, did not return. Thereafter, the complainant went to Ganda Nala and saw that his son was lying on the land and was being beaten by the accused persons. On his raising

noise, many people gathered there and then he along with his friends shifted his son in the injured condition to Civil Hospital, Phase-6, Mohali. However, his condition being serious, he was referred to PGIMER, Chandigarh where the doctor declared him dead. Request was made to take legal action against the accused. On the basis of the complaint, FIR was registered and the investigation commenced. Postmortem of the dead body was conducted and the statement of the relevant witnesses were recorded by the police. During investigation, the name of the petitioner also surfaced wherein it was alleged that he gave shelter to the accused after the occurrence. On the basis of the same, petitioner-accused was arrested on 19.11.2022. Petitioner approached the Court of learned Additional Sessions Judge, SAS Nagar, Mohali praying for grant of bail. However, after hearing both the sides, learned Additional Sessions Judge, Mohali declined the same vide his order dated 08.12.2022. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner has submitted that no offence under Section 212/201 IPC was mentioned in the FIR, however, during investigation, the same has been added in the FIR and hence, he could not mention the same in the headnote of this FIR. He prays for adding the same.

Learned State counsel has no objection to the same and thus, present FIR be read under Sections 302, 323, 148, 149 of IPC along with Section 212/201 IPC.

Office is directed to add newly added offence in the headnote of the petition.

Learned counsel for the petitioner has vehemently contended that the petitioner is a young boy of 18 years of age who has been illegally roped in the present case. He submits that neither the name of the petitioner is mentioned in the FIR nor any role has been attributed to him as is evident from the bare reading of the allegations made in the FIR. He submits that on the basis of disclosure statement of the co-accused, petitioner was involved in this case wherein it was alleged that he harboured the accused after the occurrence. He submits that the main accused as per the allegations in the FIR is Ajay. He also submits that one of the accused named in the FIR is Sawan who is brother-in-law of the petitioner. He has submitted that on account of the same, petitioner has been implicated in this case. He submits that even if as per the allegations made against the petitioner, he has been prosecuted for the offence under Section 212 IPC in which the maximum punishment is 03 years as per the statutory provisions. He submits that petitioner is a young boy and he has no criminal antecedents and thus, he deserves to be granted bail.

Learned State counsel, though has opposed the submissions made by learned counsel for the petitioner but affirmed that during investigation, complicity of the petitioner was found in the present case and it was found that the petitioner has given shelter to the accused after the occurrence and thus, offence under Section 212 IPC has been added. He submits that the investigation is complete and challan is presented on 17.11.2022 and Sections 212, 201, 148, 149 of IPC were incorporated in supplementary challan on 09.02.2023. He submits that however, the charges are yet to be framed.

I have heard counsel for the parties and perused the record.

As submitted before this Court, neither the petitioner is named in the FIR nor any allegations were made against him. However, during investigation, he has been alleged to have harboured accused Sawan, who is his brother-in-law. As submitted offences under Sections 212/201/148/149 IPC were added and supplementary challan against the petitioner was submitted before the Court. There is nothing on record to show that the petitioner has any other criminal antecedents.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

11.05.2023
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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