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

CRM-M-4218-2023

Date of decision : 09.08.2023

Ashok**..... Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Harish Bhatti, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

Prayer is for grant of regular bail in FIR No.583 dated 16.08.2020, registered for offences punishable under Sections 147, 149, 302, 323, 325, 341 of IPC, at Police Station Sadar, Hisar.

2. As per the contents of FIR registered on the statement of Mahabir s/o Bag Chand, it has been alleged as under:-

“I am resident of the above said address and I do Farming. We are three brothers. I am the elder, Satsang is younger than me and Jagdish is youngest brother aged about 46 years. That me and my younger brother Jagdish, my uncle Ram Singh and my nephew Dinesh had been going for stroll in the morning towards their fields as usual. Today on dated 16.08.2020, as usual, all four of us were going towards our fields for a walk. My nephew Dinesh was two acres behind us. When we reached Dahima road near the graveyard, a small car came from behind and crossed us and stopped near a car

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parked at T point and both the vehicles again came towards us and stopped in front of us and about 9-10 persons landed at once with the road and sticks, out of which Atmaram Resident of Jatai, he was carrying iron in his hand, defied him that “sale ka kaa tamam kr do” on this saying, Atmaram, Anil Son of Om Prakash, Naveen Son of Sadharam, Kuldeep Son of Dharamveer and others attacked started indiscriminately beating with sticks and rods to my brother Jagdish, Me and my uncle started telling that what is the matter, what is the matter. Then one pushed my uncle who fell, I started to get rid of him, then he hurt me too, we made a noise killed killed then my nephew Dinesh, who was following us, two or three people were seen running toward us, then assailants with their own rods and sticks, sitting in and drove away both the vehicles. I could not see the number of vehicles which I could not see due to our injury, Dinesh and Jitendra took us to Government Hospital Hisar for treatment after arranging for the car, where the doctor put on our ointment, which caused more injury to us then Dinesh and Jitender took us to Sarvodaya Hospital for treatment and got us admitted. My brother Jagdish was declared dead by the doctor due to heavy bleeding from the injury. My statement has been recorded and heard which are correct.”

3. Counsel for the petitioner referring to the aforesaid FIR submits that the petitioner has not been named in FIR, no injury has been attributed to him and there is no motive attributable to the petitioner. He has been nominated merely for the reason that the car in which the accused travelled belongs to his family and was being driven

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by him. He submits that there is no allegation that the petitioner caused any injury or even alighted from the car at the place of occurrence. Reliance is being placed on order dated 11.05.2022 whereby co-accused Monu has been granted concession of regular bail in CRM-M-28424-2021, order dated 18.11.2022 whereby co-accused Sheelu has been granted concession of regular bail in CRM-M-29880-2022 and that dated 21.11.2022 passed in CRM-M-38207-2022 whereby co-accused Sumit @ Matri has been granted concession of regular bail and that dated 05.01.2023 passed in CRM-M-60128-2022 whereby Bintu has been granted concession of regular bail.

4. It has been contended that the petitioner has been behind bar since 04.04.2022 and is by suffered incarceration for more than 01 year, 04 months and 06 days. There are total 32 cited witnesses out of which 05 material witnesses including the complainant already stand examined. Trial is likely to take a long for conclusion and in the absence of there being any material allegation against the petitioner, incarceration cannot be prolonged as a punitive measure.

5. Factual assertions made by counsel for the petitioner are not disputed by State counsel, however, he submits that keeping in view that the petitioner played an active role in the crime, he does not deserve concession of regular bail.

6. After hearing the arguments raised by respective counsels, taking into consideration the facts of the case, role attributed to the petitioner and the incarceration suffered by the petitioner, this Court feels that the petition deserves to be allowed. Resultantly, the petitioner is ordered to be released on regular bail on his furnishing bail/surety

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bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

09.08.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No