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

**CRM-M-6453-2023
Date of decision : 22.11.2023**

VIKRANT @ MANGA

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Parvesh Jaglan, Advocate
for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.171 dated 27.06.2018 registered for the offences punishable under Sections 302, 34, 120-B IPC, 1860 and Sections 3(2) (v) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 25 of Arms Act, 1989 at Police Station Adampur, District Hisar.

2. FIR was registered on the statement made by one Mahabir son of Jai Singh father of the deceased who alleged as under :

“xxx that I am resident of the above noted address and work as 'mason'. That I having two sons and three daughters and al are married my younger son namely Kuldeep aged 24 years marriage was solemnized with Sunita daughter Randhir caste

Bajigar, resident of Village Netawali, Rajasthan three years ago out of this wedlock Sunita has a unborn child in her womb of 7-8 months and my son Kuldeep use to work with me and after work on every evening he use to play Volleyball near Hanuman mandir. That today dated 26.0.2018 at around 7/8 o'clock he went play Volleyball on his motor-cycle Honda CD shine bearing number HR20A9238 color black and time around about 9:30PM was standing outside home and that time three young boys were passed in front of me, those boys just reached about one acre distance from my house and a motor cycle came from opposite side then the same was stopped by the three boys and they fired on the driver of motor-cycle and I run away towards them on hearing of sound then driver of the motor-cycle fell down along with motor-cycle and even after falling down they fire two times on him and I reached the spot by shouting them all three boys runaway from there when I saw after reached at the spot motor-cycle was of my son name Kuldeep and my son Kuldeep was agonize then I shouted then all the people of locality gathered there and arranging the vehicle then my son Kuldeep left his breath upon that we informed the police and you reached the spot and take legal action against the three boys who killed my son Kuldeep by firing.xx”

3. Counsel for the petitioner submits that there is no cogent evidence against the petitioner apart from the confessions made by co-accused that too in police custody which cannot be relied upon. He further submits that the complainant appeared as PW-2 and has not supported the prosecution *viz-a-viz* the accused present in the Court i.e. the present petitioner and stated as under :

“xxxx Stated that I am working as a Mason. I have Five children and all are married. My son Kuldeep was married with

Sunita daughter of Ranbir. Kuldeep was working as Mason with me. On 26.06.2018. When my son Kuldeep was going to play Volleyball near Hanuman Temple in our village on his motor cycle bearing Registration No.HR20AA/9238. At about 9.30PM when I was standing outside my house, then three young boys pass on a motor cycle in front of me. When they reached about a distance of one acre from my house then another motor cyclist came from opposite side. They stopped said motor cyclist and fired gun shots upon him, due to which, said motor cyclist fell down on the road but despite that they continued firing upon him. I ran towards that side and raised alarm. upon which, assailants ran away from the spot. I saw that the motor cyclist was my son Kuldeep and he was agonized. Upon my raising alarm, some people gathered there. When we were trying to arrange vehicle then my son died on the spot. Upon which, I informed the police. After sometime police reached there and I got recorded my statement Ex.P2 to the police which was thumb marked by me at point A. Except this. I do not know anything about this case. I have seen accused present in the court today but he is not one of the assailant. Police never met me after the occurrence neither I got recorded any statement to the police naming therein any person for killing my son nor I moved any application to the police or higher authorities.

xxxx”

4. Per contra, State Counsel submits that there are serious allegations and keeping in view the heinous crime wherein one life has been lost the petitioner does not deserve grant of regular bail.

5. On the Court's query w.r.t. to the nature of the evidence against the present petitioner, State Counsel does not dispute that the petitioner was nominated on the basis of disclosure made by Vikas @ Vicky and the complainant Mahabir who appeared as PW-2 admitted before the Court that Vikas @ Vicky was not present on the spot. He further submits that the

petitioner is involved in four more other cases.

6. Faced with the situation counsel for the petitioner relies upon **'Prabhakar Tewari vs. State of UP and another', 2020 (1) RCR (Criminal) 831** to submit that the involvement of the petitioner in several more cases cannot be a ground to deny bail. Further reliance has been placed upon **'Maulana Mohd. Amir Rashadi vs. State of UP (SC)', (2012) 2 SCC 382.**

7. Without commenting on the merits of the case, keeping in view the nature of the evidence against the petitioner and the fact that he is behind bars since 29th of June, 2019, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

November 22, 2023 **(Pankaj Jain)**
Dpr **Judge**

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