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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: July 20, 2023

Santokh Singh @ Balkar Singh

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Aminder Singh, Advocate petitioner.

Mr. Karan Garg, AAG Haryana.

Mr. Rajinder S. Rana, Advocate for complainant.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in a case bearing FIR No.739 dated 02.10.2020, registered under Sections 186, 307, 323, 332, 341, 353, 427, 506, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') (Section 302 of IPC and Sections 3(2)(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') added later on), at Police Station, Thanesar City, District Kurukshetra.

2. Per prosecution version, complainant/eyewitness, namely, Ram Chander @ Sonu alleged that on 02.10.2020, while his father Yashpal was going to his house, Balkar (petitioner) son of Inder Singh, Ram Chander son of Inder, Babu son of Vinod Kumar, Deepu son of Vinod Kumar and servant of Ram Chander wrongfully restrained the way of his father and the above said persons quarreled with his father and gave beating to him. Balkar Singh and Bhura uncle @ Ram Chander exhorted the ladies of their house to throw brick-bats from the roof. The elder daughter of Balkar, other daughters and wife of Ram Chander and wife of Balkar threw flowerpots and brick-bats upon him. When complainant, his Bhabi Poonam wife of Rishi Pal, his wife Seema, his mother Satya Devi and his brother Aman and his servant came to rescue at the spot, they saw that petitioner Balkar was having hammer in his hands, who gave a number of hammer blows on the head of his father. Ram Chander and petitioner Balkar also inflicted hammer and Sword

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blows upon his mother. The ladies continued to throw flowerpots and brick-bats upon them followed by *Danda* blow to complainant at the hands of Deepu and another *Danda* blow to his brother Aman by co-accused Aman. On receiving telephonic message, police reached the spot. The accused persons also inflicted injuries to the police personnel and threw stones upon the vehicle of police, due to which, the vehicle of the police got damaged and the scooter of complainant was also vandalized. When more persons started gathering, the accused persons including petitioner Balkar took to their heels. An FIR was registered in this regard. During investigation, petitioner was arrested on 02.10.2020.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that there is nothing on record to show that alleged injuries were caused by petitioner. Investigation is complete, challan has been filed, charges have also been framed, custodial interrogation of the petitioner is not required. No recovery of alleged hammer has been made from the petitioner. Co-accused of the petitioner, namely Ram Chander @ Bhura, Chavi Nath @ Bawva and Kuldeep Kundra @ Deepu have already been granted bail by a co-ordinate Bench of this Court vide orders dated 29.06.2021 and 19.07.2021. Nothing is to be recovered from the petitioner.

4. Per contra, learned State counsel, assisted by learned counsel for complainant, opposes the bail petition. He submits that petitioner has committed a serious offence. There are total 17 witnesses and out of them, 4 are private witnesses. Complainant/ eyewitnesses are yet to be examined. There is likelihood that petitioner may tamper with the evidence and influence the witnesses, in case he is released on bail.

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

6. It transpires that there are as many as 3 eye witnesses as well as complainant, who also witnessed the alleged crime committed by the petitioner and his co-accused and none of them have so far been examined. In the premise, in case petitioner is let out at this stage, possibility of his influencing/ intimidating the witnesses who are yet to depose, cannot be ruled out. In the premise, at this stage, no concession is being accorded to the petitioner.

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7. As an upshot, instant bail petition is dismissed with liberty to the petitioner to file fresh one before learned Court below after the testimony of complainant and three eye witnesses concludes. Needless to say that as and when fresh bail petition is filed, learned Court below shall decide the same on its own merits based on material available on Court file without being influenced by dismissal of instant petition.
8. It is made clear that any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 20, 2023
mahavir
Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No