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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-12747-2023 (O&M)****Date of decision: April 20, 2023**

Ravinder

...Petitioner

versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Vikas Gulia, Advocate for petitioner.

Mr. S.S. Mann, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

This is second foray of petitioner before this court, seeking bail in criminal case bearing FIR No.95 dated 11.05.2019, registered under Sections 148, 149, 307, 324, 341, 506 of the Indian Penal Code, 1860 (for short 'IPC') (Section 302 IPC added later on), at Police Station Barauda, District Sonapat; first bail petition bearing CRM-M-40403-2020 was dismissed as withdrawn vide order dated 11.10.2021 (Annexure P-8).

2. Per FIR, registered on the complaint of one Anil, on 11.05.2019 in the midnight he got to know that one Kuldeep had allegedly beaten up to one Prem. When said Prem was on way to police station along with Rakesh and Rajpal, 10-12 young boys namely Kuldeep, Ravinder (present petitioner), Anil, Niku Pandit, Chautala, Pammi, Deepak and Kala, armed with swords, gandasas (sharp edged spear) and pistol in their hands, confronted Prem and threatened him to teach a lesson. All of them started beating Prem using their respective weapons. Meanwhile, when two more person viz. Rakesh and Rajpal also reached there, seeing them, all the accused fled from the spot. Anil and Prem both suffered injuries. Later on, Prem succumbed to his injuries after 14-15 days of the

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occurrence. On the basis of statement made by injured/complainant Anil, formal FIR was registered and accused were arrested.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in the present case. There is no specific role attributed to petitioner in the alleged FIR. Victim-Prem died after 15 days of the alleged incident. Petitioner had no motive to commit the alleged offence, as there is/was no enmity between petitioner and deceased. Petitioner has been named merely because was friendly with main accused, namely Kuldeep. He also submits that three co-accused of petitioner have already been granted bail by this Court and four co-accused by learned trial Court. He submits that moreover, main co-accused, namely, Kuldeep has also been granted bail vide order dated 17.01.2023 (Annexure P-5) on his approaching this Court by way of CRM-M-1194-2023.

3.1. Learned counsel would strenuously argue, relying on the testimony of complainant Anil (star prosecution witness-PW-5), that even he has denied that it was the petitioner, who had caused injuries either to him or the deceased Prem. Said witness has even denied that he ever moved any complaint to the police against the petitioner.

4. On the other hand, learned State counsel appears and opposes the bail petition. He submits that petitioner has committed serious offence.

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

6. It transpires that testimony of material prosecution witness has already been recorded. Furthermore, it is not controverted by learned State counsel that PW-5 who is stated to be an eyewitness of the entire incident leading to registration of FIR in question on the allegation of petitioner having committed crime, has not stood by version of prosecution. Role attributed to petitioner is also at par with co-accused, namely, Kuldeep as the sword, which was allegedly used to

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commit crime, was recovered from said co-accused. Petitioner was attributed *farsa* (a sharp edged weapon) blow.

7. Petitioner is in custody, *inter alia*, for the apprehension that he may unduly influence or intimidate the witnesses to be examined. On a Court query, learned State counsel, under instructions, informs that the main witness i.e. complainant (another injured), namely, Anil has already been examined. He has indeed resiled from the prosecution version. Co-accused Deepak alias Goli, Deepak alias Vicky, Rohit and Amit were granted concession of regular bail by learned trial Court, whereas co-accused Kuldeep, Vikash alias Nikku Pandit, Sumit and Parmeet alias Pummi were granted regular bail by this Court.

8. Co-accused of the petitioner have thus already been granted regular bail. Petitioner deserves parity with his co-accused at this stage. Petitioner is in custody in this case since 11.07.2019. Investigation is complete. There are total 32 witnesses out of which only 17 witnesses have been examined. Trial is still likely to take long time, whereas petitioner has already been languishing in jail for the past more than three and half years in preventive custody.

9. Be that as it may, allegations against petitioner are matter of trial at this stage. Eye witness (star-witness of prosecution), having not supported prosecution version, petitioner is entitled to the benefit of being let out as an undertrial.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

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12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

13. Disposed of. It is made clear that any observations made hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

(ARUN MONGA)
JUDGE

April 20, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No