

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

**CRM-M-13015-2023
DECIDED ON: 31.05.2023**

DARSHAN SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Manoj Tanwar, Advocate
for the petitioner.

Mr. G.S. Dhillon, AAG, Haryana.

Ms. Alisha Soni, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 583, dated 14.10.2021, under Sections 120-B, 302, 307, 324, 449, 326, 201 of IPC, registered at Police Station Pundri, District Kaithal, Haryana (Annexure P-1).

2. Learned counsel for the petitioner contends that its a case of no injury, wherein the petitioner has been roped on the basis of disclosure statement made by Ismile @ Raju, who was got arrested on the basis of statement of eye witness namely Suksham. It was Raju, who is carrying axe and inflicted injuries to the mother and sister of the complainant. It is also to be noticed here that accused Ismile @ Raju was working as servant in the house of the petitioner and it is on that account alone, name of the petitioner has been dragged in the instant FIR without having any incriminating evidence.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for the last 1 year, 7 months and 11 days, who is not involved in any other case. He has opposed the prayer made in the present petition stating that mobile phone belonging to the deceased was recovered from the possession of the petitioner.

4. Ms. Soni, Advocate appearing for the complainant has vehemently contended that severe injuries were given on the person of the deceased with an axe, but she could not controvert the fact that the injuries have been attributed to Ismile @ Raju and not to the petitioner. She however, opposes the prayer made in the present petition on the ground that the petitioner was actively involved in commissioning of offence, and therefore, equally responsible in commissioning of offence under Section 302 of IPC, having connived with the co-accused, who has very rightly named the present petitioner in his disclosure statement.

5. Having heard learned counsel for the respective parties, this Court is of the considered view that since the petitioner has already suffered sufficient period in custody and as per the principle of the criminal jurisprudence, no one should be considered as guilty till the guilt is proved beyond reasonable doubt, whereas in the instant case, trial is prolonged and likely to take long time in the light of the fact that out of 13 prosecution witnesses, only 3 have been examined and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgement of Apex Court in "***Dataram Singh vs. State of Uttar Pradesh and another***, (2018) 3 SCC 22".

6. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

7. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

31.05.2023

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>