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2023:PHHC:148677

CRM-M-17244-2023
Date of decision : 22.11.2023

Versus

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Mr. Jaswinder S. Arora, DAG, Punjab with
ASI Ramesh Kumar,

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.399, dated 25.08.2022 registered for the offences punishable under Sections 307/323/324/148/149 of IPC, at Police Station Islamabad, District Amritsar.

2. Short reply by way of affidavit of Surinder Singh, PPS, ACP, Central Amritsar City, has been filed on behalf of respondent-State today in Court, which is taken on record. Copy supplied.

“xxx Stated that I am the resident of above address and I have completed my 10+2 study in the year of 2018 and after completing my studies, I was looking for work but I am free due to not getting any job and I am currently trying to go abroad. Yesterday on dated 24.08.2022, time was about 07:00 PM, me

and my brother Albert Rahul Hans who is driver, we both were sitting and talking at Sardari Lal's Bhatta, Indira Colony, then suddenly two motorcycles came from Bhatta's road and two motorcycles and one scooty came from Shankar's Street side, On which Suraj S/o Sanjeev Kumar Babba r/o Guru Nanakpura along with Navish, Prabh alias Dandu, Manga alias Mangu and Mohini alongwith 8-10 other unidentified persons who were carrying Dattar, Kirpan, and other deadly weapons came on motorcycles and scooty. Among them, a person named Navis raised Lalkara and said that he is Rahul Hans, today he will not let it dry, today we will kill him. After that I and my brother Albert Rahul Hans started running from there, then my brother Albert Rahul Hans fell down there while running. Seeing it fell down, Navis fired a shot from his dub which something like a desi cutta and fired. From which my brother somehow saved himself and then they grabbed my brother Albert Rahul Hans and started beating him with their own weapons. Suraj and Navis caught hold him and Prabh alias Dandu, Manga alias Mangu and Mohini armed with Dattars and they gave blows repeatedly and hit Albert Rahul Hans on his head and face. Seeing them fighting, I started throwing bricks at them so that I could save my brother, then Suraj took out a pistol from his pocket and fired two shots at me, To save myself I ran away from there and jumped into the nearby field and hide himself. After which all of them took my brother Rahul sitting on the scooty with them. After that I went to my house and told all the situation to my father Shiv Kumar, after which my father and I came out to the house and started looking for my brother, after an hour received a call of my friend Honey on my uncle's mobile no. 62395-67324 and saying that Albert Rahul Hans is standing next to him whose condition is not good and he has suffered a lot of Injuries, and he said that, I am coming to your house alongwith injured. My friend Honey r/o Dashmesh Nagar, brought him to our house after some time, then I and my father Shiv Kumar arranged an auto-rickshaw for the injured Albert Rahul Hans and then we

went to Kot Khalsa Police Station, where we got Docket for medical treatment, we took Albert Rahul Hans along and admitted him to the Civil Hospital, Amritsar, which is undergoing treatment. The grudge is that my brother Albert Rahul Hans earlier supported Nikhil alias Bhal and his brother Akashdeep and Suraj S/o Sanjeev Kumar alias Babba and Mangu etc. were against this so they injured my brother Albert Rahul Hans, Injuries are inflicted with intention to kill. Today, I left my brother under the care of my father Shiv Kumar and is going to the police station for information. Today I met you. Suraj S/o Sanjeev Kumar, Babba r/o Gurunanakpura, alongwith him Navis, Prabh @ Dandu, Manga alias Mangu and Mohini including 8-10 other unidentified persons who have injured my brother with the intention to kill him. Kindly take a strict legal action. Xxx”

4. As per custody Certificate filed in Court today, the petitioner is behind bars for last more than 1 year, 1 month and 8 days.
5. Counsel for the petitioner while referring to the contents of the FIR submits that even if the present petitioner is alleged to have fired a shot from something like *desi katta* however the same did not lead to any injury on the person of the victim. He further submits that investigation already stands concluded and challan stands presented. So far as the complainant and the victim are concerned both are unfortunately expired due to different reasons not owing to the injuries suffered in the present case and thus there can't be any apprehension that the petitioner shall tamper with the evidence. He further submits that the allegation w.r.t. the firing from pistol is also ill-founded as no empty or pistol was recovered from the petitioner.
6. State Counsel however submits that there are serious allegation

against the petitioner and in fact from the bare perusal of the FIR it is evident that it is the present petitioner who was the main accused and further the petitioner is involved in two more cases and thus he does not deserve grant of regular bail.

7. Having heard rival contentions of the parties and after going through records of the case, without commenting on the merits of the case, keeping in view the fact that the investigation already stands concluded and Challan stands presented and the custody of the petitioner cannot be prolonged as a punitive measure, 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