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2023:PHHC:123870

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22613-2023

Date of Decision: 20.09.2023

PARDEEP KUMAR @ PARMEET

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sahil Choudhary, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.33 dated 24.02.2021 (Annexure P-1) registered under Sections 148, 149, 323, 302, 120-B IPC and Section 25 of Arms Act, 1959 (which was later on removed vide Challan dated 22.07.2021) at Police Station Jathlana, District Yamuna Nagar.

2. The brief facts of the case are that the statement of one Yash Pal son of Baljeet Singh was recorded to the effect that his cousin Ankit (deceased) son of Mange Ram was an agriculturalist. On 23.02.2021, he (complainant) along with Ankit (deceased), Anil (now known to be Anit) son of Ranjit and Vikram son of Jagpal Singh had gone to the river for stroll. Meanwhile, an Alto Car came from behind and struck him. The said car stopped and a boy sitting on the rear seat on the driver side namely, Kamal Pandit came out of the car and fired two gunshots in the air. Thereafter, Rajesh son of Balbir, Narinder son of Balbir, Simmi son of Dharam Pal Saini

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and Bharat Bhushan son of Som Nath came out of the car. In the meantime, one Pardeep Jat resident of Sangipur came there on a motorcycle. There were 4/5 persons on two motorcycles. Rajesh was armed with a Gandasi, Narinder with a sword and Bharat Bhushan with a Gandasi whereas Simmi and Pardeep Kumar were armed with iron rods. He (complainant) along with Ankit, Anil and Vikram started running on seeing the accused. However, while running away, Ankit fell down. Meanwhile, he (complainant) while standing at a distance saw that the aforementioned persons were causing injuries to Ankit while he was lying on the ground by means of a Gandasi, swords and iron rods after which the accused fled away from the spot. Thereafter, they (complainant party) came to the spot and found that Ankit (deceased) had suffered severe injuries on his head, arms and legs. Ankit was taken to the Hospital at Yamuna Nagar from where he was referred to the PGI, Chandigarh but was taken to Jindal Hospital, Jagadhri instead where he succumbed to his injuries. The present occurrence was a fall out of an earlier occurrence of September, 2020 when he (complainant) and Ankit had an altercation with the aforementioned boys. Legal action was sought.

After the registration of the FIR, during the course of investigation, Bijender Saini alias Simmi and Narinder were arrested on 24.02.2021. Section 120-B IPC was added to the FIR.

On 26.02.2021, Pardeep Kumar alias Parmeet (petitioner), Rajesh Kumar alias Banta, Bharat Bhushan alias Sonu and Kamal alias Kala were arrested. Rajesh Kumar alias Banta got recovered an Alto Car bearing No.HR07AA-0430. He also recovered a Gandasi used in the commission of the offence. Kamal alias Kala got recovered an iron pipe whereas the

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petitioner got recovered a wooden Binda. Rajat alias Golu (granted bail vide order dated 25.04.2023 Annexure P-12) was arrested and got recovered a scooty on 01.03.2021.

During the course of further investigation, it was found that accused Narender Kumar and Bijender Saini alias Simmi were not present at the spot and consequently, the said accused were released vide order dated 26.03.2021. Similarly, Pardeep Kumar son of Karnail Singh was also not found at the spot.

During the course of the investigation, it was found that no gunshot had been fired so the offence under the Arms Act was deleted.

After completing the investigation, the report under Section 173(3) Cr.P.C. was prepared qua Rajesh, Kamal, Rajat, Pardeep alias Parmeet (petitioner), Bharat Bhushan alias Sonu on 25.05.2021 whereas Narinder Kumar and Bijender Saini were kept in Column No.2. Accused Vikrant son of Sukhbir is yet to be arrested.

3. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR. Anit Kumar and Vikram had got recorded their statements under Section 161 Cr.P.C. wherein the name of the petitioner does not figure. It was only during the course of the recording of the statement of the witnesses in Court that the name of the petitioner cropped up. He contends that even as per the statement of PW5 Anit Kumar recorded in Court, the petitioner and Rajat @ Golu are stated to have given Danda blows on the deceased. The said Rajat @ Golu has been granted the concession of bail vide order dated 25.04.2023 (Annexure P-12). As the petitioner was in custody since 26.02.2021 and only 12 of the 27 prosecution

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witnesses had been examined so far, he was entitled to the concession of bail, moreso, when his co-accused Rajat @ Golu had been granted the similar concession.

4. A reply dated 19.09.2023 by way of an affidavit of Gurmail Singh, HPS, Deputy Superintendent of Police, Radaur (Yamuna Nagar) has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner along with his co-accused had actively participated in the occurrence and Ankit (deceased) was beaten to death with Gandasis, swords, iron roads and a Danda. As per the deposition of PW5-Anit Kumar, the petitioner and Rajat @ Golu had given Danda blows on the person of Ankit (deceased). A wooden stick had also been recovered from the petitioner. Therefore, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 26.02.2021, only 12 of the 27 prosecution witnesses had been examined so far and that the co-accused Rajat @ Golu has been granted the concession of bail vide order dated 25.04.2023 (Annexure P-12).

5. I have heard the learned counsel for the parties.

6. Undoubtedly, the petitioner was not named in the FIR. He has been nominated as an accused on the basis of the statement of his co-accused. Some of the witnesses whose statements were recorded under Section 161 Cr.P.C. have also not been named the petitioner. It was later during the course of the Trial that the name of the petitioner has figured as having assaulted the deceased along with his co-accused Rajat alias Golu. The said Rajat alias Golu has been granted the concession of bail vide order dated 25.04.2023 (Annexure P-12). As the petitioner is in custody since 26.02.2021 and only

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12 of the 27 prosecution witnesses have been so examined so far, the Trial of the present case is not likely to be concluded in the near future. In this situation, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Pardeep Kumar @ Parmeet son of Beer Singh is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

20.09.2023
JITESH

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