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(107)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28632-2023 (O&M)
Date of Decision: 04.10.2023

RAVI

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Varun Sharma, Advocate
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

Mr. Ravi Malik, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

CRM-37785-2023

The present application has been filed by the applicant-petitioner
for recalling/setting aside order dated 28.08.2023 passed by this Court.

Allowed as prayed for subject to all just exceptions.

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The prayer in the petition under Section 439 Cr.P.C. is for the
grant of regular bail in case bearing FIR No.442 dated 13.06.2021 registered
under Sections 148/149/323/506 IPC and Section 302 IPC was added later on
at Police Station Camp Palwal, District Palwal.

2. The present FIR came to be registered at the instance of
Srichand son of Shri Balaram who stated that he had four sons namely, Ram
Kumar, Virendra (deceased), Yadram and Bhagat. On 12.06.2021, while he

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was present at his house, his son Virendra who was an auto driver came home at about 11.00 o'clock and was injured and covered in blood. Virendra told him (complainant) that Laxman son of Shri Deviram, Shyam son of Shri Daya and Ranjeet son of Shri Daya along with 3-4 other persons had attacked him (Virendra-deceased) with a knife and sticks with an intention to kill him. As Virendra had become unconscious, they (complainant party) took him to GH Palwal from where he was transferred to Sarvodya Hospital, Faridabad and onwards to Safdarjang Hospital, Delhi. Legal action was sought.

On 14.06.2021, an application was moved to the Safdarjang Hospital, Delhi seeking to permission to record the statement of the then injured Virendra. However, by that time, the injured had died.

Meanwhile, the statement of one Chet Ram was recorded under Section 161 Cr.P.C. wherein, he stated that he had seen 5-6 boys assaulting another with sticks and rods and the injured boy was bleeding from his head. Later on, he had come to know that the injured boy was Virendra, an auto driver.

The supplementary statement of the complainant was recorded wherein, he stated that he had been informed by Chet Ram and others and after conducting an inquiry of his own, it had come to his knowledge that his son Virendra had been beaten up by the named accused along with Ravi (petitioner).

3. The learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He is not named in the FIR. Even in the supplementary statement of the complainant, no specific role has been attributed to him. Even otherwise, as per the supplementary statement,

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the complainant came to know about the name of the petitioner from one Chet Ram. The statement under Section 161 Cr.P.C. of Chet Ram itself does not name the petitioner. Therefore, it could not be said that the petitioner was one of the assailants. Though, the recovery of a stick had been effected from the petitioner, the same was not blood-stained and therefore does not further the case of the petitioner. As he was in custody since 18.06.2021 and only 06 of the 24 prosecution witnesses had been examined so far, he was entitled to the concession of bail moreso when in the one other case registered against him bearing FIR No.34 of 2019 under Sections 148/149/452/307 IPC and Sections 25/54/59 of Arms Act, Police Station Hodal Haryana, he had been granted the said concession.

4. On the other hand, the learned State counsel contends that on the arrest of the other accused, they suffered their respective disclosure statements inculcating the petitioner. The petitioner was also arrested and has admitted to have taken part in the occurrence. Further, a stick has been recovered from him. Keeping in view the allegations against the petitioner and his co-accused, he was not entitled to the concession of bail. He, however, admits that the petitioner was in custody since 18.06.2021 and only 06 of the 24 of the prosecution witnesses had been examined so far.

5. The learned counsel for the complainant has vehemently opposed the bail application and has reiterated the submissions made by the counsel for the State.

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

6. The culpability of the petitioner shall be adjudicated upon during the course of trial. Admittedly, the petitioner is in custody since 18.06.2021

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and only 06 of the 24 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In such a 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-Ravi son of Shir Bhagwan 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 cases mentioned in this order.

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

04.10.2023

JITESH

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