

**218/4 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-30654-2022****Date of decision : 25.05.2023****Darshan Lal****.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********Present :-** Ms. Anju Sharma, Advocate
for the petitioner.

Mr. B.S. Virk, Senior DAG, Haryana.

Mr. Atul Prataap Dhankar, Advocate
for the complainant.*********RAJESH BHARDWAJ, J. (Oral)**

Petitioner has approached this Court by way of present petition praying for grant of regular bail in case FIR No.236 dated 09.07.2020, under Sections 148, 149, 323, 364, 302, 120-B of IPC, registered at Police Station Sadar Dabwali, Sirsa.

As per the facts of the case, statement of Satwinder Singh @ Sonu was recorded. It was alleged that he was running a barber shop at Bijjuwali. He got information that injuries have been inflicted to his brother Jitender @ Monu. On receiving the information, he went to the Government Hospital, Dabwali and there he came to know that his brother Jitender @ Monu along with his friend Arun @ Hunny were having food at Punjabi Dhaba where Bandagi Ram, Goru, Kala Ram and Budhu came on their motorcycles accompanied by 18/19 other persons. They started inflicting injuries to his brother Jitender @ Monu with swords and sticks which they were carrying. They picked up his brother on their motorcycle and brought

him to village Sukera Khera and there they inflicted injuries to his brother in front of house of Bandagi Ram. The ambulance was called on the spot by villagers and his brother Jitender @ Monu was admitted in Government Hospital, Dabwali where he was declared dead by the doctors. It was alleged that his brother Jitender @ Monu was killed by Bandgi Ram, Goru, Kala Ram, Budhu and 18/19 other persons by inflicting injuries with swords and sticks. Request was made to take legal action against the culprits. On the basis of the complaint, formal FIR was lodged and investigation commenced. Petitioner was arrested on 10.02.2022. He approached the Court of learned Additional Sessions Judge, Sirsa praying for grant of bail. However, after hearing counsel for the parties, learned Additional Sessions Judge declined the same vide his order dated 27.06.2022. Aggrieved by the same, petitioner has approached this Court by way of present petition.

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in this case. He has submitted that neither the petitioner is named in the FIR nor any specific role has been attributed to him. It is argued before the Court that the petitioner was arrayed as an accused on the basis of disclosure statement made by the co-accused which is not even admissible under the Evidence Act. She has submitted that the petitioner had no motive to cause death of deceased. She has submitted that the similarly situated co-accused namely, Davinder Singh, Sukhnam, Navdeep and Kashmiri Lal have already been granted bail by this Court vide order dated 08.11.2021. It is submitted that the investigation is already complete, charges have been framed and the petitioner has no criminal antecedents and hence, he deserves to be granted bail.

Learned State counsel has submitted that though the petitioner was not named in the FIR, however, his name surfaced during the course of

investigation. He has fairly submitted that the case of the petitioner is at par with the co-accused namely, Davinder Singh and others, who have already been granted bail by this Court vide order dated 08.11.2021. He has submitted that out of 35 prosecution witnesses, only 01 witness has been examined till date.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner was not named in the FIR. However, during investigation, his name surfaced in the disclosure made by the co-accused. As per the status report filed by the State, no recovery has been effected from the petitioner during investigation. There is nothing on record to show that the petitioner has any criminal antecedents. It is also submitted that the case of the petitioner is not distinguishable from that of the co-accused namely, Davinder Singh, Sukhnam, Navdeep and Kashmiri Lal.

The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

25.05.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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