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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: July 12, 2023

Mamraj and another

....Petitioners

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Saurabh Sharma, Advocate for petitioners.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)**CRM-27285-2023**

For the reasons stated in application, same is allowed subject to all just exceptions.

Main case (O&M)

Petitioners, both stated to be about 56-years old, seekbail in criminal case bearing FIR No.224dated 17.10.2021, registered under Sections323, 302, 148 read with Section 149of the Indian Penal Code, 1860 (for short 'IPC'), at Police StationSaha, District Ambala.

2. Per FIR, registered at the instance of complainant Harjot Singh, on 16.10.2021 at 8.30 p.m., a harvester combine was being driven by Rajesh Kumar on which complainant was sitting too and, another harvester combine of Dinesh Baba was being driven ahead of them. While *enroute* harvester combine of Dinesh Baba got entangled in electricity wires, as a result of which wires were snapped, resulting in disruption of electricity to the houses of Dharampal, Mamraj and others. Their family members came out and started fighting with Dinesh Baba and when complainant and his relative Mandeep tried to intervene, Dharampal, Munish

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and Sudesh started beating Pritpal Singh. Father of complainant also reached there. Allegedly, Dharampal raised *lalkara* and then petitioners and other accused attacked them, armed with wooden sticks and iron rods. Sudesh hit iron rod on the head of Mandeep, Jasbir also attacked Mandeep with iron rod while Sukhbir gave *Binda* blow to Mandeep and then other accused persons also assaulted Mandeep. Later on, Mandeep was taken to Civil Hospital, Ambala, where he was declared brought dead. An FIR was registered next day on 17.10.21. Petitioner No.1 is in custody since 27.10.2021 and petitioner No.2 is in custody since 18.10.2021.

3. Learned counsel for petitioners submits that it is a case of version and cross-version. Petitioners have been falsely implicated in this case. He further submits that though petitioners were specifically named in the FIR, but neither any specific injury caused to the complainant-victim has been attributed to them nor is there any overt act on their part to instigate co-accused and/or prime accused. He further submits that prime accused Sudesh Pal has already been concession of bail by this Court vide order dated 06.07.2023 passed in CRM-M-25103-2023. Petitioner No.1 is in custody since 27.10.2021 and petitioner No.2 is in custody since 18.10.2021. He also submits that all material witnesses have been examined, but none of them have supported the prosecution case.

3.1. Learned counsel for the petitioners submits that petitioner No.1 was working as mason. He is now suffering from acute diabetes, due to which he had to quit work. Learned counsel for petitioners would further urge that petitioner No.2 is a mason by profession having four children between the age group of 16 to 22 years. He is the sole breadwinner of his family.

4. On the other hand, learned State counsel, on instructions from SI Sakil Mohd., opposes the bail petition. He submits that petitioners have committed a serious offence.

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5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. In this case, petitioners are stated to be named in the FIR but no specific injury caused to the complainant has been attributed to them. Prime accused Sudesh Pal has also been granted concession of bail by this Court vide order dated 06.07.2023. It is the only case, in which petitioner is stated to have been implicated. There are total 31 witnesses, out of them 9 have been examined, and none of them have supported the prosecution case.

7. Trial is likely to take long time. Whereas, petitioners have already been languishing in jail for the past around one year and nine months in preventive custody since 27.10.2021 and 18.10.2021, respectively. Petitioners are also entitled to bail on the ground of parity since his co-accused, stated to be prime accused, has already been granted bail by this Court.

8. Considering the overall scenario, particularly the complainant and material witnesses having not supported the prosecution version, but at the same time, without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioners in further preventive custody.

9. Accordingly, petitioners are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where their case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

10. In case, petitioners are found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their bail in the instant case.

11. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the

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limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 12, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No