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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-31532-2023 (O&M)****DATE OF DECISION: 13.07.2023****Dharam Pal****...Petitioner****Versus****State of Haryana****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. R. P. Kohle, Advocate and
Mr. T.K. Joshi, Advocate
For the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in a criminal case bearing FIR No.224 dated 17.10.2021, registered under Sections 148, 323, 302 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC') at Police Station Saha, District Ambala.

2. Per the First Information Report (FIR), on 16.10.2021 at 8.30 p.m., complainant was riding on a harvester combine being driven by Rajesh Kumar. Another harvester combine was being driven ahead of them by Dinesh Baba. 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 Dharam Pal (petitioner), Mamraj and others. Their family members came out and started fighting with Dinesh Baba and when complainant and his relative Mandeep (since deceased) tried to intervene, petitioner Dharam Pal, Munish and Sudesh started beating Pritpal Singh. Father of complainant also reached there.

Allegedly, petitioner Dharam Pal exhorted his co-accused whereafter

petitioner and other accused armed with wooden sticks and iron rods attacked them. Sudesh hit iron rod on the head of Mandeep, Jasbir also attacked Mandeep with iron rod while Sukhbir gave *Bindablow* to Mandeep followed by other accused persons assaulting Mandeep. Later on, Mandeep was taken to Civil Hospital, Ambala, where he was declared brought dead. An FIR was registered next day on 17.10.2021 at instance of complainant Harjot Singh. Petitioner is in custody since 18.10.2021.

3. Learned counsel for petitioner submits that it is a case of version and cross-version. Petitioner has falsely been implicated in the present case. There is an unexplained delay of one day in registration of FIR. Petitioner was not even present at the spot when the alleged occurrence took place. He is a smalltime agriculturist and belongs to a poor family. He further contends that prime accused Sudesh and has already been granted bail whereas the only role attributed to petitioner is that of raising *lalkara*. No injury has been attributed to petitioner. There was no motive with the petitioner to commit any alleged offence. All material witnesses, including the complainant, have already been examined and they have turned hostile. No other FIR/case is pending against the petitioner.

3.1 Learned counsel for petitioner would further urges that investigation *qua* petitioner is complete as challan was filed long back. He also submits that co-accused of the petitioner, namely Ram Parkash, Rajinder Kumar, Jasbir Singh and Sukhbir Singh, have also been granted concession of anticipatory/regular bail by this Court vide orders dated 18.05.2023, 24.05.2023 and 26.05.2023, respectively (Annexures P-7 to P-10). Petitioner is entitled to be released on bail on parity with his co-accused.

4. On the other hand, learned State counsel, on instructions from HC Rattan Singh, opposes the bail petition. He submits that petitioner has committed a serious offence.

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

6. It transpires that no specific injury caused to the complainant or the deceased has been attributed to petitioner. Prime accused Sudesh Pal has also been granted concession of bail by this Court vide order dated 06.07.2023. The only role attributed to petitioner is that he exhorted his co-accused to inflict injuries to complainant party. He is reportedly not involved in any other case. The material witnesses, including complainant, have not supported the prosecution case. Out of total 31 witnesses, 9 have been examined.

7. Trial is unlikely to conclude in near future. Whereas, petitioner has already been languishing in jail for the past around one year and nine months in preventive custody since 18.10.2021. Petitioner is also entitled to bail on the ground of parity since one of his co-accused Sudesh, who is 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 petitioner in further preventive custody.

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

10. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his 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 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.

JULY 13, 2023

Shalini

(ARUN MONGA)

JUDGE

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No