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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-33021-2023 in/and
CRM-M-34766-2022
Date of Decision:09.08.2023

Manak Aggarwal @ Manik Aggarwal

...Petitioner

vs.

State of Punjab and another

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Kanwal Goyal, Advocate and
Mr. Shobhit Rapria, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

Mr. Suneet Pal Singh Aulakh, Advocate
for applicant/respondent No.2-complainant.

N.S.Shekhawat J. (Oral)

CRM-33021-2023

Prayer in the application is for impleading the complainant as
respondent No.2

For the reasons mentioned in the application, the same is allowed
and the complainant is ordered to be impleaded as respondent No.2. Amended
memo of parties is taken on record.

CRM-M-34766-2022

The petitioner has filed the instant petition under Section 439 of the
Cr.P.C. with a prayer to grant regular bail in case FIR No.293 dated 06.08.2021
registered under Sections 302, 307, 323, 148, 149, 120-B of IPC (Sections 325,

326 of IPC added later on) at Police Station City Kharar, District SAS Nagar.

Learned counsel for the petitioner contends that the petitioner has been named in the present case and as per the case of the prosecution, the petitioner had caused an injury with an iron rod on the back of the head of Rakesh Kumar, since deceased. As per the post-mortem report of Rakesh Kumar (Annexure P-2), there is no injury by blunt weapon on the back of the head of Rakesh Kumar. Thus, there was contradiction between the ocular version and the medical evidence. Learned counsel further submits that most of the injuries on the person of Rakesh Kumar (since deceased) were attributed to Deepanshu Singla and his other co-accused. He further contends that the petitioner was arrested in the present case on 16.08.2021 and there is no other criminal case against the present petitioner. Apart from that, the police has already been presented the final report under Section 173 Cr.P.C. and out of total 25 witnesses, no witness has been examined so far. Learned counsel also refers to the order (Annexure P-3) dated 15.07.2022 passed by this Court in CRM-M-7983 of 2022 titled as Rajesh Kumar @ Rajesh Mishra vs. State of Punjab, whereby the bail petition filed by the said co-accused was allowed by this Court. Learned counsel further contends that since the trial is not even begun, it will take considerable time for trial to conclude and the custody of the petitioner will serve no meaningful purpose.

On the other hand, learned State counsel has contested the submissions made by learned counsel for the petitioner on the ground that the petitioner has been specifically named in the FIR and has been assigned a specific role. He further contends that the ocular testimony of a witness has

greater evidentiary value viz-a-viz medical evidence and the petitioner had caused injury with an iron rod on the back of the head of Rakesh Kumar, since deceased and no ground is made out to grant the concession of regular bail to the present petitioner.

I have heard the learned counsel for the parties and perused the record.

In the present case, it is apparent that the petitioner is behind bars since 16.08.2021 i.e. for more than 01 year and 11 months. Still further, as per the allegations levelled by the complainant, he is attributed an injury with an iron rod on the back of the head of the deceased and since the said injury does not find mention in the post-mortem report of Rakesh Kumar, since deceased; consequently, the involvement of the petitioner in the commission of the crime is yet to be established by the prosecution, during the course of trial.

In the circumstances of the present case, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

09.08.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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