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(235)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44420-2023

Date of Decision: 19.10.2023

PANKAJ

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Shantanu Bansal, Advocate
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.07 dated 23.01.2021 registered under Sections 302 r/w 34 of the IPC at Police Station Panjokhra, District Ambala, Haryana.

2. The present FIR came to be registered at the instance of Rakesh son of Raj Kumar who stated that he was an agriculturalist. His younger brother Krishan was employed as a driver on car No.HR56A6408. Along with his brother, Pankaj (petitioner) son of Sanjay was employed as a cleaner. Sumit son of Dalbir was employed as a driver on another vehicle and Jagpal @ Bittu son of Bakshish Singh was employed as a cleaner on that vehicle. On 21.01.2021, his (complainant's) brother had come to their village for loading material to be taken to Ambala. He (complainant) received information on the phone that his brother had been grievously injured by his fellow drivers and cleaners in a fight that had taken place on the night

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intervening of 22/23.01.2021 and that the accused persons had got him (brother of the complainant) admitted at Rajpura Hospital. On receiving the information, he (complainant) reached the spot and satisfied himself that his brother Krishan had been inflicted life threatening injuries by Sumit, Pankaj and Jagpal @ Bittu because of some personal enmity and his brother had succumbed to his injuries.

On 24.01.2021, petitioner-Pankaj, Sumit and Jagpal @ Bittu were arrested. Canter bearing No.HR-56A-6408 make Eicher 1059 was recovered from the petitioner and canter bearing No.HR-56A-6421 make Eicher 1110 was recovered from accused Jagpal @ Bittu. On the basis of the disclosure statement of the accused Sumit and petitioner wooden sticks were recovered. From accused Jagpal @ Bittu, a brown wallet belonging to the deceased-Krishan containing an ATM Card, Driving Licence, PAN Card and Aadhar Card and currency notes of Rs.30 along with some visiting cards were got recovered from near the crime spot.

3. The learned counsel for the petitioner contends that the petitioner has only been named on suspicion and there is absolutely no admissible evidence against him connecting him to the offence. The recovery of a blood-stained Binda (Danda) has been shown from the petitioner but that by itself in the absence of any substantive evidence would be insufficient to affix liability upon the petitioner. As the petitioner was in custody since 24.01.2021, only 01 of the 22 prosecution witnesses had been examined so far and he was a first-time offender, he was entitled to the concession of bail.

4. A status report dated 17.10.2023 by way of an affidavit of Aashish Chaudhary, HPS, Deputy Superintendent of Police, Ambala City has

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been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that though the petitioner has been named on suspicion, subsequently, on the basis of his disclosure statement one of the weapons of the offence i.e. a Binda (Danda) has been recovered from him which has been found to be blood-stained and the blood grouping is the same as that of the deceased. Therefore, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 24.01.2021 and only 01 of the 22 prosecution witnesses had been examined so far.

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

6. Whether the evidence on record against the petitioner and his co-accused is sufficient to affix guilt upon the petitioner shall be adjudicated upon during the course of Trial. Admittedly, the petitioner is a first-time offender, in custody since 24.01.2021 and only 01 of the 22 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. As such, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Pankaj son of Sanjay 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 petitioners 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 they are not involved in any other crime other than the present case.

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9. If the petitioner or their family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

10. 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.

11. The petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.10.2023

JITESH

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