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2023:PHHC:147836

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-43872-2023

Date of Decision:21.11.2023

Sagar

...Petitioner

vs.

State of Haryana

...Respondent

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

Present : Dr.Pankaj Nanhera, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

Mr. Kapish Singla, Advocate for
Mr. Ashit Malik, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

1. Mr. Kapish Singla, Advocate for Mr. Ashit Malik, Advocate had put in appearance on behalf of complainant by filing his Vakalatnama, which is taken on record.

2. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 257 dated 15.06.2022, registered under Sections 323,307,302,506,201 read with Section 34 of IPC (Section 302 IPC added later on) Police Station Gadpuri, District Palwal.

3. The FIR in the present case was registered on the basis of the statement made by Subhash. As per him, at about 12:30 PM on 14.06.2022, the complainant had gone to the booth to give food to his nephew, Akash. He saw that Jeetender, Sagar and one more relative of Sagar were quarrelling with his nephew. When he was objected to it, he was also threatened by the accused.

After that, Sagar and his co-brother caught hold of his nephew and Jeetender, who had a knife, stabbed on the stomach of his nephew. Consequently, Akash fell down and he was taken to Civil Hospital, Palwal. Due to the critical condition of the injured, he was referred to Sarvodya Hospital, Faridabad.

4. Learned counsel for the petitioner contends that he has been falsely involved in the present case. Akash was admitted in Sarvodya Hospital on 15.06.2022 and discharged from the hospital on 02.07.2022, as per the discharge summary dated 02.07.2022 (Annexure P-2). Learned counsel further contends that Akash had died on 08.11.2022 i.e. after five months of the occurrence. Learned counsel further contends that as per the post mortem report, it was mentioned that the cause of death would be given after receiving the Histopathology report in the present case and cause of death is still uncertain. Learned counsel further contends that the fight had initially taken place between Jeetender and Akash and petitioner and his relative had tried to separate both the parties. Learned counsel for the petitioner further contends that the petitioner was arrested in the present case on 29.08.2022 and was granted the concession of bail on 14.10.2022. After addition of the offence under Section 302 IPC, he again surrendered on 05.12.2022 and is in custody since then. The challan has already been presented in the present case and further incarceration of the petitioner is of no use at this stage.

5. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner has been specifically named in the present FIR and he had caught hold of the deceased. Learned counsel further contends that the petitioner may tamper with the

prosecution evidence and does not deserve the concession of bail.

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

7. It is apparent that the initially the offence under Section 307 IPC was added in the instant case and the petitioner was ordered to be released on bail on 11.10.2022. However, after the death of Akash on 08.11.2022, the offence under Section 302 IPC was added in the present case and the petitioner was again arrested on 05.12.2022. The petitioner remained on bail from 11.10.2022 to 05.12.2022 and there is no allegation of misuse of concession of bail against him. Apart from that, the prosecution case hinges upon the testimonies of the close relatives of the deceased or the official witnesses and the petitioner may not be in a position to influence the witnesses of the prosecution. Apart from that, there is no evidence to indicate that the present petitioner may abscond from the process of law in the instant case.

8. In view of the above discussion, 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.

21.11.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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