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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50366-2023 (O&M)

Date of decision:11.10.2023

Vipin

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** Mr. Rajesh Lamba, Advocate and
Mr. Randeep S. Dhull, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

ARUN MONGA, J. (ORAL)

Following the denial of bail by learned trial court, the petitioner is now before this Court seeking his release as an undertrial in a case with FIR No.24 dated 27.01.2018, registered under Sections 323, 302 read with Section 34 of Indian Penal Code, 1860 (for short 'IPC') at Police Station, Bhuna, District Fatehabad.

2. An FIR was registered on 27.01.2018, based on the statement of the complainant, Krishan Kumar (father of the deceased), who alleged that he was working at Shiv Bhole Bricks Company, Nehla, and his family, including his 22-year-old son Upender and his relatives, had also come to the brick-kiln. On 26.01.2018, there was a marriage function for Budhani's daughter, where he was called to prepare food. Then, at about 3:00 p.m., Budhani, Mithlesh, and Vipin started abusing him. Upon hearing the commotion, his son Upender and his nephew Shiv Lal came to his aid, and the assailants began assaulting them. Budhani was carrying a danda, Vipin had a kassi, and Mithlesh held a danda. Budhani struck him on the head and the wrist of his right hand. Mithlesh struck his nephew Shiv Lal on the head. When Upender tried to intervene, Vipin, along with Budhani and Mithlesh, started beating Upender indiscriminately. His son sustained serious injuries and was rescued by other laborers working at the brick-kiln. Subsequently, the owner of the brick kiln called for an

passed away on 27.01.2018, around 7:00 a.m., due to injuries sustained in the incident. An FIR was registered, and the matter was investigated. The petitioner was arrested on 28.01.2018 and has been in custody since then.

3. Learned counsel for the petitioner contends that no specific role has been attributed to the petitioner. He submits that the complainant and the injured eyewitnesses have already been examined, and they did not support the prosecution's case; they were declared hostile. The petitioner is not involved in any other case. The presence of the petitioner at the alleged incident site has not been verified.

3.1 He further submits that the petitioner is not required for further custodial interrogation. There is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses. The petitioner is entirely innocent and has been falsely implicated in the case.

4. On the other hand, learned State counsel vehemently opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He acknowledges that the allegations against the petitioner are serious but concedes that no other case is pending against him.

5. I have heard the opposing arguments of the learned counsels for the parties and have reviewed the case file.

6. In response to a query from the Court, as instructed by SI Dilbagh Singh learned State counsel informs that charges were framed on 11.05.2018 after the challan was filed. Investigation concerning the petitioner is complete, and he is not required for custodial interrogation. At this stage, the allegations against the petitioner are subject to trial. Of the twenty-one prosecution witnesses, seven have been examined so far, and the case is scheduled for 13.10.2023. The trial's progress has been slow, and it is expected to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since January 28, 2018, for more than 05 years and 08 months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.
8. The petitioner is a 33-year-old family man. With a family to support, a fixed abode, and a clean record, it is unlikely that he poses a flight risk or will flee from trial proceedings.
9. Considering the overall scenario and 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.
10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Ld. 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.
11. In case, petitioner is found 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.
12. 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 bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

11.10.2023
vandana

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