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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.53772of 2022
Date of Decision: 05.09.2023

Vishpal @ Happy

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Sunil Panwar, Advocate and
Mr. Amandeep Rana, Advocate for the petitioner.

Mr. Surender Singh AAG, Haryana
Mr. Saurabh Sharma, Advocate for the complainant.
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SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
282	21.09.2020	148, 149, 302, 307, 323, 324, 452, 506 and 120-B IPC and Section 25 of the Arms Act, 1959.	Naraingarh, District Ambala, Haryana

2. Brief facts of the case are that FIR has been registered on the

statement of Ravinder Kumar @ Titu Rana stating that on 21.09.2020, at about 2:00 PM Parmal Singh visited his house to buy cow from him but he refused to sell. On refusal, said Parmal started assaulting him; after some time when he along with his uncle Hem Singh and other persons were collecting paddy which they had been spread for drying, then at that time, Parmal Singh, Randeep, Happy, Ranjour, Husan Pal, Monu, Narpal and Chouhal armed with knife, sword, and sticks, attacked the complainant by forming unlawful assembly and Parmal, attacked the complainant with sword and knife and stabbed in the stomach, chest and arm. Randeep caught hold of Rohit and Happy attacked him with the knife held in his hand and caused injuries. Thereafter, Hem Singh was caught by Monu and Ranjour and Parmal stabbed Hem Singh with knife due to which he succumbed to the injuries on the basis of the which the present FIR was registered.

3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case due to vengeance. He submits that as per the FIR, co-accused Randeep caught hold of injured Rohit and the petitioner alleged to have attacked him with knife and caused injuries. However, he submits that no injury has been caused by petitioner which is evident from the testimony of injured Rohit while appearing as PW3 in the trial Court. He submitted that injured Rohit had sustained only one injury on back and as per his testimony it is attributed to accused Parmal and not to the petitioner. He further submits that co-accused Chouhal Singh (now deceased), Narpal Singh and Husan Pal were granted bail by this Court vide orders dated 08.11.2021 passed in

CRM-M-32821-2021 and dated 06.05.2022 passed in CRM-M-51931 of 2021 respectively. He submitted that the petitioner Vishpal @ Happy is in custody since 21.09.2020 and prayed for grant of regular bail.

4. On the other hand, learned State counsel assisted by learned counsel representing the complainant have contested the bail application by vehemently arguing that the petitioner is not entitled to bail as he has committed heinous crime having participated as member of unlawful assembly armed with weapon in which one person died. They submitted that knife was recovered from the possession of the petitioner, hence prayed for dismissal of the petition. However, it is admitted that challan has been filed and charges have been framed and only one witness has been examined till date.

5. The arguments advanced by learned counsel for the parties have been heard.

6. After considering the rival contentions and perusing the record, it transpires that as per the version given by the complainant, that on 21.09.2020, at about 2:00 PM Parmal Singh visited house of complainant where some altercation took place and later when the complainant along with his uncle Hem Singh were collecting paddy spread for drying then, Parmal Singh, Randeep, Happy, Ranjour, Husan Pal, Monu, Narpal and Chouhal armed with knife, sword, and sticks, attacked the complainant by forming unlawful assembly and Parmal, attacked the complainant with sword and knife and stabbed in the stomach, chest and arm. Randeep caught hold of Rohit and Happy attacked him with the knife held in his hand and

caused injuries. Thereafter, Hem Singh was caught by Monu and Ranjour and Parmal stabbed Hem Singh with knife due to which he succumbed to the injuries.

7. During the course of arguments the learned counsel for the petitioner has drawn attention of this Court to the testimony of injured Rohit as PW3 wherein he categorically stated that during the scuffle while accused Randeep has caught hold of Rohit then Happy attacked him with knife meanwhile, accused Parmal came and gave knife blow on his back. As per the medical report, only one injury is there on Rohit which is lacerated wound on the lower back and the same has been attributed by him to accused Parmal. Meaning thereby no specific injury has been attributed to the petitioner. The learned State counsel on instructions from SI Kulbir Singh admitted the fact that only one injury as aforesaid is there on the person of Rohit. From the record it transpires that the petitioner was arrested on 23.09.2020 and since then he is in custody; Challan has already been filed; charges have been framed and only one prosecution witness has been examined out of the 31 cited prosecution witnesses. Therefore, considering the aforesaid facts and circumstances it is observed that no useful purpose would be served by keeping petitioner behind the bar any further as the trial may take considerable time to conclude.

8. Consequently, in the light of the above, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on regular bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned; undertaking to

regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

05.09.2023
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No