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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: October 03, 2023

Rajdeep Singh @ Deepi

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Armaan Gagneja, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.45 dated 11.03.2020, registered under Sections 302, 307, 341, 323, 506, 148 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Civil Lines, District Bathinda.

2. Aforesaid FIR has been registered based on Baldev Singh's statement. He stated that, on March 10, 2020, his son Gurpreet Singh borrowed Rs.100 from him and went to the market. Around noon, Baldev Singh received information that his son was near Kali Mata Mandir, where he had a confrontation with some other boys, leading to concerns of further conflict. Baldev Singh went to Kali Mata Mandir Park in Model Town Phase-I, Bathinda, and found his son Gurpreet sitting with his friend Bhupinder Singh. Shortly thereafter, 18-20 boys on 8-10 motorcycles arrived at the scene, including individuals known to Baldev Singh, such as the accused Rahul Aatvadi, Sunny, and others.

2.1. Sunny and Rahul were armed with iron rods, while the remaining individuals carried baseball bats. They attacked Gurpreet Singh, inflicting multiple injuries, including head injuries, and also physically assaulted him. Frightened by the situation, Baldev Singh did not intervene. Upon the intervention of onlookers, the attackers fled the scene. Gurpreet Singh was rushed to Civil Hospital, Bathinda, and then

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transferred to Bathinda Neuro Spine Trauma Centre. On March 13, 2020, doctors recommended moving Gurpreet Singh to a larger medical facility, leading his family to take him to Ludhiana. Tragically, Gurpreet Singh passed away at the entrance of DMC Hospital, Ludhiana. Consequently, an offense punishable under Section 302 of the Indian Penal Code was added to the case through DDR No.13 on March 13, 2020. The petitioner, Rajdeep, was arrested on March 16, 2020, and a broken wooden baseball bat was recovered from him on March 18, 2020, based on his disclosure statement.

3. Learned counsel for petitioner would contend that petitioner was not even present at the spot when the alleged incident occurred. As per complainant's own version, no specific role/ injury has been attributed to the petitioner. He has thus not committed any offence, as alleged.

3.1. Learned counsel for the petitioner refers to paragraph 4 of the status report/affidavit dated July 16, 2023, which is already on record. He argues that, it is clearly stated that the key role attributed to the petitioner is that of merely being a member of an unlawful assembly. Furthermore, it is mentioned that the petitioner had inflicted a blow with a stick on the injured Bhupinder Kumar. Learned counsel will further argue that although the FIR also pertains to the deceased, but no role has been attributed to the petitioner concerning the deceased in the same incident. There is an unfounded presumption that the petitioner, being present at the scene of the incident, may also be involved in the death of the deceased. Despite the fact that no role has been attributed to him with respect to the elements of Section 302 of the Indian Penal Code, the petitioner has been in custody till date.

3.2. Learned counsel further submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. Petitioner is not involved in any other case.

4. On the other hand, learned State counsel, opposes the bail petition. He submits that petitioner has committed a serious offence. Petitioner along with his co-accused has caused murder of deceased. If released on bail, there is likelihood of

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petitioner fleeing from trial proceedings and/or tampering with evidence and influencing witnesses. He however, admits that there is no other case against the petitioner.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel, under instructions from ASI Sapara Singh submits that challan has already been presented and charges were framed on 14.12.2020. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Out of total 28 witnesses, only 01 has already been examined so far. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Whereas, petitioner has already been languishing in jail for the past more than 03 years and 06 months, being behind bars since 16.03.2020.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. It is stated that petitioner was 19-year old at the time of alleged incident. His entire career and life is at stake due to his continued long incarceration. Having a fixed abode and clean antecedents, it is unlikely that petitioner poses any flight risk and/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 learned 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.

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11. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 03, 2023
mahavir

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No