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

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CRM-M-56729-2023

Date of decision : 17.11.2023

Santosh Sahani

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Arun Chander Sharma, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.0112 dated 15.04.2019, registered for the offences punishable under Sections 302 and 34 of IPC at Police Station Yamuna Nagar Sadar, District Yamuna Nagar.

2. Counsel for the petitioner relies upon order dated 16.10.2023 passed in CRM-M-51604-2023, whereby co-accused Nand Kishore Sahni stands admitted to regular bail observing as under:-

“This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.0112 dated 15th of April, 2019 registered for the offences punishable under Sections 302, 34 of the IPC at Police Station Yamuna Nagar Sadar, District Yamuna Nagar.

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2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. FIR was registered on the complaint made by one Munna Singh son of Satya Narayan brother of the deceased Muntun Singh after he alleged as under :

“Stated that I am above mentioned name and address and was working in Pine Plyboard factory at village Ishapur for the last 10-12 years. We are three brothers and one sister. Which we two brothers are married and my one brother and sister are unmarried. Muntun Singh, my younger brother used to work in Bhagwati Ply board for the last two years and used to reside in the quarters situated outside the factory. I came to know on telephonic call, in the night that contractor Kishana's brother Kanhiya, Santosh Sahni, Nand Kishore and others has given beatings to his brother Muntun Singh and caused head injuries with lathis, dandas to my brother Muntun Singh. On account of head injuries suffered, Rajesh Kumar had taken away my brother in the Civil Hospital, Yamuna Nagar for treatment in car. That after getting this information, I have reached in Civil Hospital Yamuna Nagar where after checking, doctor declared dead to my brother. That my brother has been killed after hitting injuries in quarrel by Kanhaiya, Santosh Sahni, Nand Kishore Sahni and others. Legal action be taken against the above, I have recorded my statement to you, heard which is right.”

4. Munna Singh appeared as PW-1 and suffered statement to the following effect :

“Stated that on 15/4/2019, my brother Muntun Singh was working in Plywood factory at Damla and I was working in Pine Plywood factory at Ishapur. My brother Muntun Singh was residing in Damla. On that day, I came to know that my brother Muntun Singh was in serious condition. I came to know that my brother has been admitted in Civil

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Hospital, Yamuna Nagar by the police. When we reached there, we came to know that he has expired and his post mortem examination willa be conducted at there. I lateron came to know that my brother was beaten by Kanhiya and Krishna and two other persons (whose names, I do not remember). After conducting post mortem, dead body was handed over to us and we took the dead body at Bihar for cremation. I got recorded my statement to the police. The same is Ex.P1, which bears my signature at point 'A'. Out of them, two accused persons namely Santosh and Nanda Kishore are present today in the Court. I identify them.

XXX by Shri Viney Sharma, Advocate, counsel for accused persons.

I have been working in Pine Plywood factory at Ishopur from the last three years. Prior to it, I was working in Bihar. Muntun Singh was working two years prior to my employment at Bhagwati Plywood, Damla. Muntun Singh was employed since the last 5-6 years in Bhagwati Plywood factory. Some body had called me telephonically about myl brother's serious condition. I do not remember as to who was the person who called me telephonically on 15.4.2019. Some labourers accompanied me to Civil Hospital, Yamuna Nagar. Police had met me in Civil Hospital, Yamuna Nagar. Police had told me the names of the assailants. who had caused injuries to my brother Muntun Singh. It was for the first time that I came to know about the names of the accused in the hospital. In did not witness the occurrence as I was at village Ishopur, whereas the incident occurred at village Damla. During investigation, police informed me about the progress of the case. I myself did not inquire about the incident. The police did not record my statement. It is correct that police had obtained my signatures on a paper in Civil Hospital, Yamuna Nagar. In know the name of accused Kanhiya and Krishna. Two accused persons present in the court are Kanhiya and Santosh. I had seen the

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accused persons at Damla, prior to today. I had seen the accused 2-3 months prior to the incident. There was no enmity between the accused and deceased. It is wrong to suggest that I have never seen the accused persons, prior to the incident. It is wrong to suggest that I did not receive any information about the alleged incident. It is wrong to suggest that I have deposited falsely on the asking of police.”

4. Counsel for the petitioner submits that there is no eye-witness account. Even the statement of the complainant is based upon hearsay. It has been further contended that it is surprising that the petitioner was present in the Court on the day the complainant was examined, the complainant yet stated that “my brother was beaten by Kanhiya and Krishna and two other persons (whose names I do not remember)”. The petitioner is behind bars since 16th of January, 2023. Material witness i.e. the complainant already stands examined. Counsel further submits that the fact that the petitioner was declared Proclaimed Offender at one point of time cannot be attributed to the petitioner in view of the fact that during the time of Covid-19 pandemic, the petitioner returned back to his home in Bihar and that led to his absence from the trial.

5. State Counsel does not dispute the aforesaid factual assertions made by counsel for the petitioner which are based on records of the case.

6. I have heard counsel for the parties and have gone through records of the case.

7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate

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concerned.

8. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.”

3. Learned State counsel is not in a position to dispute that the case of the petitioner is also at par with that of co-accused.

4. Without commenting on the merits of the case, granting parity and the incarceration already suffered by the petitioner, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

5. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

17.11.2023

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Whether speaking/reasoned : Yes

Whether Reportable : No