

221 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRM-M-3087-2024
Date of decision: 25.01.2024

DEEPAK

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mohit, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

The present first petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.423 dated 12.12.2022 under Sections 147/148/149/323/379-B/427/452/506 of Indian Penal Code (Sections 324/302/307/325/120-B and Section 25 of Arms Act added later on) registered at Police Station Bhuna, District Fatehabad, Haryana.

2. The present FIR was lodged on the statement of Garib Dass on the allegations that in the family of complainant, one Ramdas father of Manoj was expired and all were sitting at his home after the death of Ramdas and in the meanwhile, one, Kanshi Ram came on the *kirana* shop of complainant for getting the *bundal* of *biddi* then Shivam grandson of the complainant was sitting in the street due to death which has occurred in their family. Therefore, *biddi* cannot be sold, then due to that talk, Kanshi slapped on the face of Shivam and after some time, called 30-40 persons on spot who attacked through bricks and stones on their houses. Knife blow was given on the stomach of Mukesh son of the complainant, brick blow was given in the head

of Ravi, serious injuries were caused on the finger and thumb of Ramesh and entire belongings in the house were broken. It is further alleged that they had also snatched the gold chain from the neck of Mukesh.

3. Learned counsel for the petitioner contends that the perusal of the FIR would indicate that the complainant Garib Dass has named six persons in the FIR, which was registered on 12.12.2022. The present petitioner has been implicated in this case only on the basis of disclosure statement suffered by co-accused while in custody which is hit by Section 27 of the Evidence Act. He further contends that the similarly situated co-accused namely Suresh has been granted anticipatory bail by this Court vide order dated 17.05.2023, passed in CRM-M-22135-2023 titled 'Suresh Vs. State of Haryana'. The injury attracting the offence under Section 302 of IPC is specifically attributed to co-accused Sandeep @ Bachi. The cause of death, according to the death summary, is respiratory failure and whether the same is a result of the alleged incident so as to make out the offence under Section 302 IPC is to be determined by the trial Court.

4. Per contra, learned State counsel on instructions from ASI Dalbir Singh, opposes the prayer of regular bail to the petitioner on the ground that he, being the member of unlawful assembly, has actively participated in the alleged occurrence. Custody certificate filed by the respondent-State is taken on record.

5. Having heard learned counsel for the parties and after perusing the records of the case, it transpires that the petitioner is behind the bars since 16.12.2022 and has undergone the custody of 01 year, 01 month and 09 days as on 24.01.2024. He is not involved in any other case. The investigating agency has already concluded the investigation and submitted the final report under Section 173 Cr.P.C. on 12.03.2023 and trial of the case has not even

commenced as none of the prosecution witnesses have been examined so far. Similarly situated co-accused namely Sanjay has been granted the concession of regular bail by this Court vide order dated 05.12.2023. Culpability, if any, would be determined at the time of the trial. No useful purpose would be served by further detention of the accused-petitioner.

6. Keeping in view the facts and circumstances of the case, the present petition is allowed without commenting upon the merits of the case lest it may prejudice the outcome of the trial and the petitioner-Deepak is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

January 25, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |