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2024:PHHC:029780

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5794-2024
DECIDED ON:01.03.2024

DHIRAJPETITIONER
VERSUS
STATE OF PUNJABRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Gaurav Singla, Advocate, for the petitioner.

Mr. Jasjit Singh Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for the grant of regular bail to the petitioner in case FIR No. 77, dated 25.04.2023, under Sections 302, 365, 323, 148 and 149 IPC, registered at Police Station Sadar Ludhiana, District Ludhiana.
2. It has contended on behalf of petitioner that there is no direct incriminating material available on record to connect the petitioner with the commissioning of the offence. It is further contended that no recovery whatsoever has been effected from the petitioner. It is also his case that investigating agency while filing the report under Section 173(2) Cr.P.C., could not attribute any specific injury to the petitioner for attracting the provisions of Sections 302, 365, 323, 148 and 149 IPC.
3. On the other hand learned State counsel has produced the custody certificate of the petitioner, which would depict that he has undergone incarceration for a period of 9 months and 21 days as of now and is a person of clean antecedents, as he is not involved in any other case of any nature whatsoever. Learned State

counsel prays for dismissal of the present petition alleging that murder has taken place and around 10 boys who were armed with sticks, kapa and sword, have attacked upon the deceased. On a specific query put by this Court, he on instructions from ASI Davinder Singh, could not show, from the final report available with him, the role attributed to the petitioner for implicating him in the present petition.

4. Heard, learned counsel for the respective parties.
5. Be that as it may, considering the fact that no attribution of injury is coming forth in the report under Section 173 (2) Cr.P.C., which stands furnished on 24.07.2023 added with the fact that even no weapon has been recovered from the possession of the petitioner, who has already faced incarceration for a period of 9 months and 21 days, wherein, trial will certainly take long time, this Court is of the considered view that the petitioner cannot be detained in custody for an indefinite period and cannot be placed at par with the other co-accused armed with afore-said weapons, who may have played an active role but the petitioner was admittedly empty handed.
- 6.. In view of the above discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.
7. The present petition is, hereby, allowed.
8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

01.03.2024

Sham

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(SANDEEP MOUDGIL)
JUDGE