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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-10140-2023
Date of decision:-25.10.2024

Jhonty

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.L.M. Gulati, Advocate,
Ms.Jasneet Mehra, Advocate,
Mr.Ashwani Kumar Katter, Advocate and
Mr.Gurinder Singh Hayer, Advocate (THROUGH V.C.)
for the petitioner.

Mr.Brijesh, AAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. This third petition has been filed under Section 439 Cr.P.C.
seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
0180	23.08.2020	Division No.7, District Police Commissionerate, Ludhiana	323, 324, 341, 307, 304, 279, 506, 427, 148 and 149 IPC

2. Version of the prosecution is that FIR, Annexure P1, has been
registered on the statement of Chaturbhuj Tanwar alleging that his son

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Pankaj was attacked by Jhonty (present petitioner), Bhainta, Sunny and Gurdeep, who were accompanied by 10-12 other boys. They were armed with swords, sticks and base-ball bat and came in a Bolero car. Jhonty struck the complainant with a sword on his upper limbs as also on his head with an intention to kill him. Gurdeep, who was carrying a base-ball bat attacked Pankaj and inflicted injuries on him. In the meanwhile, Nitish (mentioned as Nitin in the FIR), who was a tenant in the premises tried to intervene, but he was also attacked. When the injured raised an alarm, accused sped in their car intentionally running over Nisha, who they presumed to be the complainant's wife. As they hit a cul-de-sac, the accused abandoned their vehicle and fled. The injured were taken to a hospital and Nisha was declared as brought dead.

3. Counsel for the petitioner argued that the petitioner, who is a young man, has been falsely implicated due to minor rivalry with the complainant's son. He submits that the petitioner is in custody since 04.01.2021 and as there is a remote possibility of an early conclusion of the trial, he deserves to be released on bail. Counsel points out that the previous two petitions preferred by the petitioner were withdrawn in the years 2021 and 2022, respectively and the star prosecution witnesses have been examined after the withdrawal of the previous petitions. By referring to the cross-examination of the complainant as well as Nitish, counsel contends that the prosecution has not been able to establish that the petitioner was driving the vehicle, which ran over the deceased.

4. *Per contra*, learned State counsel on telephonic instructions from

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ASI Sukhdev Singh has opposed the petition. He has filed custody certificate dated 24.10.2024, which is taken on record and by referring to it, he submits that besides other cases pending against the petitioner, wherein he is accused of heinous offences, he was convicted for offence under the POCSO Act. It is his categorical case that the witnesses have supported the case of the prosecution and the presence as well as the role of the petitioner has been proved before the Trial Court.

5. Countering him, counsel for the petitioner submits that sentence of the petitioner has been suspended in POCSO case by an order passed by this Court in CRM-8435-2024 on 01.10.2024. He further submits that by order dated 04.10.2024 passed by this Court, petitioner was granted interim bail as his mother was to be surgically operated upon and upon the expiry of the bail period, the petitioner duly surrendered and did not misuse the concession.

6. I have heard counsel for the parties and considered their respective submissions.

7. The role ascribed to the petitioner and the allegations levelled against him would be subject matter of debate before the Trial Court. Petitioner has been in custody for the last more than thirty five months. As per information supplied by the State counsel, three witnesses have been examined, two have been given up and fifteen prosecution witnesses are yet to step into the witness-box. It is, therefore, evident that the trial is not likely to conclude in near future. This Court is therefore inclined to accept the prayer made in the petition though it is deemed appropriate to impose some

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conditions upon the petitioner.

8. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

9. Noticing the criminal past of the petitioner and in case he is on bail in all the other FIRs, it is ordered that the petitioner will report at the police station concerned in the forenoon on first Monday of every month and also supply his mobile number to the IO/SHO, who will keep a regular check on the activities of the petitioner by making random calls. Petitioner shall also furnish an undertaking by way of an affidavit to the effect that henceforth, he will not indulge in any criminal activity and in case he violates any of the conditions imposed above, State shall be at liberty to seek cancellation of bail.

10. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

25.10.2024
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No