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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16373-2024
Date of decision : 10.04.2024
....Petitioner

Rahul Sharma

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kunal Dawar, Advocate for the petitioner.

Mr. R.K. Ambavta, AAG, Haryana.

Mr. Munfaid Khan, Advocate for the complainant.

PANKAJ JAIN, J. (ORAL)

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.281 dated 30.05.2023 registered for the offences punishable under Sections 148, 149, 323, 324, 325, 307, 341, 506 of the Indian Penal Code, 1860 (offence under Sections 302, 201 IPC added later on) at Police Station Adarsh Nagar, District Faridabad

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

3. As per the contents of the FIR it has been alleged as under :

“xxxx I, Rafi Mohd. @Pintu son of late Umar Mohd. is resident of Bhimsen colony, Mohana road Balbgarh and is running cab. We are two brother and two sisters. My elder brothers is doing work of scrap. My brother Javad and Pankaj son of Jeet Ram are friends and partners. Pankaj was talking telephonically with Rahul son of

Jagdish resident of 24 feet road, Malerna road, Adarsh Nagar. Rahul was giving abuses to Pankaj on the phone. Pankaj said to him that I can come to your house for conversation. My brother and Pankaj told this to me and our friend Santosh son of Rajinder Yadav, Adil son of Islam Khan. We said that we would also accompany you for the said talk. On 29.05.2023 at about 11:30PM me, my brother Javad, our friend Adil, Santosh and Pankaj were just to reach near the house of Rahul and have reached in front of who doctor taking 10Rs prescription on 24 feet road, Adarsh Nagar, Malerna Road. Jagdish and his 4 sons 1. Rahul 2. Ravi 3. Titu 4. Amit, apart of X them friends of Rahul 1. Atul 2. Vinod (Kano) 3. Rahul Pandit 4. Johny @ Javed (of Mukesh Colony) 5. Sunil Bhandbujia 6. Bhola and about 10-15 boys were standing there. They were having Dandas, Rod in their hands. They stopped our vehicle and Santosh has been dragged out by Rahul from the driver seat. We also tried to make them understand by coming out from the vehicle but they did not consider that and they attacked upon us with the rod, Danda and Knives carried by them in their hands. Sunil has inflicted many Danda blows to me also. Rahul etc all have inflicted many knives blows to my brother Javed and friend Pankaj. Javed has sustained injuries on stomach and Pankaj has sustained many injuries on his hand, chest, feet and hands. We raised voice for help, then, all these assailants thought that Pankaj and Javad are dead and they went away with their weapons after extending criminal intimidation to us. Me and my friend admitted Pankaj and Javed in the Manavata hospital, Balabgarh. Condition of Pankaj and Javed is very critical. Pankaj is on ventilator. Rahul and all his friends deceitfully and with a common intention called us to his house for talk and the way they have given injuries with the iron rod, Danda, knives with intent to kill and with that intention have inflicted my knife blows on their body. I did not conduct my MLR. Adil and Santosh have also received injuries in this attack. Accused has inflicted fatal attack upon us. Legal action be taken against them.xxx”

4. Counsel for the petitioner submits that the petitioner has been named as Rahul Pandit in the FIR. The only allegation against him is that he was present on the spot with *danda*. Deceased has died of stab injury and the same has been attributed not to the petitioner but to Rahul son of Jagdish.

5. On 9th of April, 2024 State Counsel sought time to seek instructions as to whether the petitioner has been attributed stab injury or not and whether the petitioner is person different from Rahul who is alleged to have stabbed the deceased.

6. State Counsel on instructions from SI Manoj Kumar submits that *danda* has been recovered from the present petitioner. Thereby admitting that Rahul who has been attributed knife stabs on the body of the deceased is different person. Investigation stands concluded. There are 22 cited witnesses. The petitioner is behind bars for more than 10 months and 7 days.

7. Bail plea of the petitioner is opposed by the counsel representing the complainant who submits that family of the petitioner is threatening the witnesses. However, he admits that there is no such complaint filed as yet.

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

9. Without commenting on the merits of the case, keeping in view the aforesaid facts especially the role attributed to the petitioner, the incarceration already suffered by him and the fact that the investigation

already stands concluded and Challan stands presented, 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 concerned.

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

April 10, 2024			(Pankaj Jain)
Dpr			Judge
	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No