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

CRM-M-21265-2024

Date of decision : 13.05.2024

RAJ KUMAR ALIAS BHOLA ALIAS RAJ KUMAR CHAUHAN

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ram Bilas Gupta, Advocate for the petitioner.

Mr. A.K. Sehrawat, DAG, Haryana.

Mr. Baljeet Beniwal, 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.139 dated 26.10.2022 registered for the offences punishable under Sections 148, 149, 323, 302, 427 of the Indian Penal Code, and Sections 325 and 120-B of the IPC added later on, at Police Station Bhupani, District Faridabad.

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

3. FIR was registered on the statement of Deepika Yadav wife of Mohit Yadav the deceased alleging as under:



“xxx it is requested that I Deepika Yadav wife of Sh. Mohit Yadav son of Late Sh. Dilip Yadav am resident of village Deha, Bhupani Faridabad. On dated 25/26.10.2022 time about 12:00 I was waiting for my husband, I was stand on roof in my house, then I heard a voice of noise of some quarrel from west side. From them one man's voice heard that Mohit is here beaten him, then, after hear the noise of quarrel, I have reached quarrel place from the house immediately, then I have see that Mukesh and their sons Kunal and Karan, resident of village Riwajpur, brother in law of Mukesh namely Amit and alongwith 4-5 persons were more. I have saw that they were beating my husband Mohit and Naveen son of Manoj, then I raised a noise 'bachao-bachao', then they started tried to run. After hearing a noise my brother-in-law (devar) Bharat Yadav also came on the spot, then thereafter the police party were also came on the spot. When all these were running, then, iron rod, Kulhari and sticks (dande) were in their hands, then immediately, the police party my husband and Naveen went to the H.K. Hospital, Faridabad, where after checking by the doctor my Corinasband declared a died. And another boy Naveen refer. Those people also damaged our car Baleno HR-29-AU-3004. Sir, it is requested that my husband Mohit Yadav has died from attacked of above mentioned persons. Please, it is requested that strict legal action should be taken against these persons. Xxx”

4. Counsels for the petitioner submits that initially name of the petitioner does not figure in the FIR. Thereafter, on the basis of disclosure the petitioner has been nominated. As per prosecution, *danda* has been recovered from the petitioner. Apart from the disclosure, there is no incriminating evidence available against him. Petitioner is behind bars for more than 1 year and 23 days. Counsel further submits that investigation stands concluded and challan stands presented and despite directions of this Court, the complainant is intentionally not appearing before the Trial Court



to depose and the trial is getting delayed. Thus, the custody of the petitioner should not be allowed to be continue as a punitive measure.

5. The bail plea is being opposed by the State Counsel as well as counsel for the complainant by submitting that the petitioner actively participated in the conspiracy to kill the deceased Mohit. However, they do not dispute the factual assertions made by counsel for the petitioner which are based on record.

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 and the nature of allegation against him, 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.

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

May 13, 2024
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No