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**231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**CRM-M-29328-2024
Decided on : 04.11.2024

Anish Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent : Mr. Sanjeev Manrai, Sr. Advocate with
Mr. Raj Kumar Rathore, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. Padamkant Dwivedi, Advocate
for the complainant.

Manjari Nehru Kaul, J.(Oral)

1. This is the petition filed by the petitioner seeking concession of regular bail in case FIR No.02 dated 01.01.2018 under Sections 307, 452, 324, 323, 148 and 149 IPC (Sections 325, 326 and 120-B IPC added later on vide GD No.22 dated 02.04.2022) registered at Police Station Guru Harsahai District Ferozepur.

2. Learned Senior counsel for the petitioner submits that the petitioner has been falsely implicated in the FIR in question, and has now been in custody for nearly 8 months since his arrest on 23.03.2024. It is argued that the petitioner's false implication is apparent as neither the name of the petitioner did appear in the FIR



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(Annexure P-1) nor was any suspicion raised concerning his involvement at any stage of the investigation. When the Investigating Agency filed the challan, no particular role was attributed to the petitioner, further indicating the lack of incriminating evidence against him. Additionally, it is submitted that the FIR was lodged after an unexplained delay of 6 days from the date of the alleged incident and even then, it was registered against unknown assailants, without any direct allegation against the petitioner. Furthermore, the injuries allegedly sustained by the complainant were declared simple in nature.

3. Learned Senior counsel for the petitioner contends that the complainant had previously approached this Court for constitution of a SIT for a more thorough inquiry, which was allowed. Despite having ample opportunities to identify all those persons, allegedly involved in the crime, during his appearance before the SIT constituted under the orders of this Court, the complainant refrained from naming the petitioner. Instead, he identified only two persons, Gurwinder Singh @ Surender and Gaura @ Chana, as accused persons. Notably, even these two persons were later declared innocent following due investigation. Learned Senior counsel argues that it is particularly peculiar and raises suspicion that only after 4 years from the registration of FIR on 01.01.2018, did the petitioner's alleged role in the matter emerge, and that too, solely based on a



disclosure statement made by co-accused. It has been asserted that the disclosure statement holds limited evidentiary value and cannot form the sole basis for implicating the petitioner in the present case.

4. Further, it is submitted that the only allegation against the petitioner is one of conspiracy, allegedly motivated by a supposed grudge against the complainant due to a prior incident involving an attack on the petitioner himself. However, this alleged motive is devoid of substance, as the petitioner neither named the complainant as an accused in that previous incident nor raised any suspicion qua the involvement of the complainant. Learned Senior counsel has submitted that this fact finds support from GD No.40 dated 12.02.2015, which was recorded by the petitioner regarding that incident. In support, attention of this Court has been drawn to Annexure P-7. Additionally, learned Senior counsel has submitted that the investigating agency has failed to gather any cogent evidence linking the petitioner to the crime in question or of having conspired with the co-accused.

5. It has been lastly submitted that despite the petitioner being in custody for 8 months, the trial has not yet commenced as the charges against him are yet to be framed. Hence, the trial would take considerable time to conclude. It has also been argued that since the investigation is complete and challan stands presented, there can be no possibility of the petitioner interfering with or



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tampering with evidence, and thus, his further incarceration would serve no useful purpose.

6. Per contra, learned State counsel assisted by counsel for the complainant has strongly opposed the prayer and submissions made by learned counsel for the petitioner by arguing that the petitioner is the master-mind behind the entire occurrence, having allegedly devised the plan at a birthday party he hosted. It is submitted that the central role of the petitioner in orchestrating the crime is detailed in the disclosure statements suffered by all four co-accused including the main assailant i.e. Jasmail Singh @ Popal. Learned State counsel has submitted that Jasmail Singh @ Popal in his disclosure statement, explicitly stated that he had attacked the complainant on the direct instructions of the petitioner, inflicting a total of 17 injuries that resulted in the complainant undergoing 9 surgeries, which left no manner of doubt qua the brutal nature of the assault.

7. Learned State counsel has further argued that the involvement of the petitioner in the crime in question is also evident from the call records procured by the investigating agency, which indicate that the petitioner was in continuous contact with co-accused Kamal Narain, who served as his domestic help. Kamal Narain in turn, maintained consistent communication with co-accused Jasmail Singh @ Popal, the person, who executed the attack on the complainant. Additionally, learned State counsel has also highlighted the motorcycle used by the co-accused to carry out recce of the area and



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subsequently used to execute the crime, was recovered from the residence of the petitioner, clearly linking him to the alleged conspiracy.

8. Learned counsel for the complainant in addition has argued that the petitioner wields considerable political influence, which led to his name being omitted from the FIR. This omission, it is contended, occurred despite the fact that the complainant had specifically identified the petitioner as an assailant immediately following the incident while he was hospitalized on 30.12.2017. Furthermore, it is alleged that certain critical documents, including statements recorded under Section 161 Cr.PC mysteriously disappeared from police records, casting further suspicion on the procedural integrity of the investigation. In light of these circumstances, learned counsel for the complainant has submitted that the complainant was constrained to approach this Court for the formation of a SIT. The investigation by the SIT subsequently uncovered the involvement of the petitioner in the crime. Given that key witnesses, including the complainant, have yet to testify before the trial Court, it is submitted that there is a significant risk that the petitioner could exert influence to intimidate witnesses or tamper with evidence, if released on bail.

9. Learned counsel for the complainant has also drawn the attention of this Court to Annexure R-1, the order vide which the petitioner's prayer for anticipatory bail was declined. It has been submitted that this Court had, while passing the said order, noticed the serious nature of the alleged offence. Based on the gravity of



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accusations and influence wielded by the petitioner, it has been prayed that the instant petition be dismissed, more so, at this critical juncture of proceedings.

10. I have heard learned counsel for the parties and perused the material placed on record.

11. Although learned Senior counsel for the petitioner has argued that there was an undue delay of registration of FIR in question and that the petitioner has been falsely implicated in the present case, it is pertinent to note that any delay in the registration of FIR would not benefit his case. It is a matter of record that the complainant was immediately removed to the hospital in a critical condition following the incident and subsequently underwent multiple surgeries due to the severity of his injuries. More over, *prima facie*, the investigating agency has collected sufficient material, including call record details between the petitioner and his co-accused, to establish the connection of the petitioner to the crime in question. As per the State counsel, the call record detail demonstrates that the petitioner maintained constant communication with his co-accused, and this, coupled with the recovery of the vehicle used in the crime, from the petitioner's residence, *prima facie*, hints towards his involvement in the occurrence in question. The allegations levelled against the petitioner that he orchestrated a brutal attack on the complainant are indeed of grave nature. The charges have not yet been framed and key witnesses are yet to testify.



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12. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of regular bail to the petitioner. Accordingly, the instant petition stands dismissed.

13. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

04.11.2024
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(MANJARI NEHRU KAUL)
JUDGE

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