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

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Date of Decision: 25.11.2024

Prince

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Monisha Beniwal, Advocate for
Mr. Rajesh Lamba, Advocate
for the petitioner (through V.C.).

Mr. Gaurav Jindal, Addl. AG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.311 dated 21.06.2022, under Sections 302, 34 IPC registered at Police Station City Ballabhgarh, District Faridabad.

2. Learned counsel for the petitioner has appeared through Video Conferencing and submitted that the petitioner is in custody for 2 years 5 months and 1 day and the charges in the present case were framed on 22.12.2022 and 6 out of 30 prosecution witnesses including the complainant have already been examined. She further submitted that it is a case where as per the allegations contained in the FIR, the complainant had reported to the police that two persons, namely, Prince (Petitioner) and one other person, namely, Kuldeep alias Kallu had come to the shop of the father of the complainant on 20.06.2022 to take some items. The father of the complainant had asked them to return the loan amount which they had taken and only



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thereafter, he will give them the items to which they started calling bad names to complainant's father and thereafter on 21.06.2022 at approximately 10:00 AM, they again called the complainant's father on telephone and asked him to reach Hyundai Agency, Ballabhgarh Tigaon road for collecting money and when complainant's father reached at the spot then the present petitioner, namely, Prince and the other co-accused Kuldeep alias Kallu along with some other persons attacked the complainant's father with iron rods, *dandas* and bricks due to which he became unconscious after receiving the injuries and thereafter, he died.

3. Learned counsel for the petitioner further submitted that so far as the present petitioner is concerned, even as per the challan which has been attached in the present petition as Annexure P-2, there has been no recovery from him. While referring to the aforesaid Final Report/Challan, she submitted that during the course of investigation, it has been so stated in the aforesaid Final Report/Challan that from the other co-accused, namely, Kuldeep alias Kallu, an iron rod used in the incident and clothes which he was wearing at the time of incident were recovered and similarly from the other co-accused, namely, Yogesh a wooden *danda* was recovered and the spot where the aforesaid incident took place was demarcated. She also submitted that so far as the present petitioner is concerned, it has been so stated in the Final Report/Challan that the spot was inspected but no recovery was made from him. She further submitted that when the status report was filed by the Assistant Commissioner of Police, Ballabhgarh, Faridabad in the present case, it has been so stated that there was recovery of a baseball bat from the petitioner which is contrary to the Final Report/Challan submitted by the police and therefore, there is material discrepancy in the Final Report/Challan and the

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affidavit filed by the Police. She also submitted that even otherwise also the material witnesses including the complainant have already been examined and there is no eye-witness in the present case and the present FIR was lodged by the son of the deceased, who is the complainant in the present case who has already been examined and therefore, considering the aforesaid facts and circumstances, the petitioner may be considered for grant of regular bail.

4. On the other hand, Mr. Gaurav Jindal, learned Addl. AG, Haryana has submitted that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that 6 out of 30 prosecution witnesses including the complainant have been examined. He further submitted that the petitioner is involved in one more case i.e. under Section 160 IPC and also referred to the affidavit filed by the Assistant Commissioner of Police, Ballabhgarh wherein it has been so stated that a baseball bat was recovered from the petitioner and therefore, considering the aforesaid facts, the petitioner is not entitled for grant of regular bail.

5. I have heard the learned counsels for the parties.

6. It is a case where the total incarceration of the petitioner comes out to be 2 years 5 months and 1 day and 6 out of 30 prosecution witnesses including the complainant have already been examined. As per the allegations, the complainant had so reported to the police that on earlier date i.e. on 20.06.2022, the petitioner and the other co-accused had come to the shop of his father and on the next date i.e. on 21.06.2022, the father of the complainant was called on the telephone by the petitioner and the other co-accused and he was called at a different place and thereafter, his father was attacked. As per the learned counsels for the parties, there is no eye-witness in the present case.

However, the deceased fell unconscious after receiving injuries. A perusal of



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the Final Report/Challan which has been attached as Annexure P-2, would show that specifically, no recovery has been shown to be made from the petitioner. Although this Court does not wish to go into the merits of the aforesaid recovery if at all made from the petitioner or not because the present petition is only for considering the grant of bail to the petitioner and therefore, it is made clear that no observation made herein would have any effect on the merits of the case, during the trial.

7. In view of the aforesaid facts and circumstances and considering the custody of the petitioner which is 2 years 5 months and 1 day and the fact that the material witnesses including the complainant have already been examined, this Court is of the considered view that the petitioner is entitled for grant of regular bail. This Court is also of the considered view that mere fact that the petitioner is involved in one more case as per the learned State Counsel, would not become a ground for denial of bail to him.

8. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

9. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

25.11.2024

*Bhumika***(JASGURPREET SINGH PURI)**
JUDGE

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| 1. Whether speaking/reasoned | Yes/No |
| 2. Whether reportable: | Yes/No |