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

2024:PHHC:092733



**CRM-M-32170 of 2024
DECIDED ON: 23.07.2024**

Karan Saini**.....PETITIONER****VERSUS****State of Haryana****.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr.Dharamvir Sharma, Advocate
for the petitioners.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked seeking regular bail to the petitioner in case FIR No.544, dated 31.12.2022, under Sections 148, 149, 325, 302, 506, 201, IPC (Section 302 and 201 of IPC added lateron) registered at Police Station Sector 50, Gurugram.

2. It has been contended by learned counsel for the petitioner that the injury which resulted into the death of the deceased has been attributed to the main accused namely Ganga Ram, who has also made a confessional statement to the effect that he gave a fatal blow. No injury has been attributed to the petitioner.

3. Reply filed by way of an affidavit of Jitender, HPS, Assistant Commissioner of Police, East, Gurugram wherein para 7, it has been categorically averred that the assailants were identified with their names by one Subhash on having put the CCTV footage recording of the incident and the present petitioner was also one of them who can be seen in the CCTV footage.

4. Apart from the fact that the petitioner gave lathi blow on the person of the deceased nothing is coming forth that on which part of the body it was given and what kind of injury has been attributed to him.

5. Learned State counsel has not controverted that fact that the main accused Ganga Ram has made a confessional statement to the effect that he gave fatal injury on the person of the deceased.

6. Learned counsel for the complainant has argued on the same lines as has been argued by the State of Haryana. He argues that the petitioner was a member of unlawful assembly; who not only gave the injuries to the deceased but also picked the vehicle of one Subhash, who is one of the witnesses in the said case.

7. Custody certificate of the petitioner filed by learned State counsel is taken on record. According to which, the petitioner has suffered incarceration for a period of 01 year 06 months and 15 days as of now and is not involved in any other case of any nature whatsoever, meaning thereby, he is a person of clean antecedents.

8. Now coming to the argument raised by learned counsel for the complainant that the petitioner was a member of unlawful assembly and gave beatings to the deceased collectively is of no help, as there is a confessional statement suffered by the main accused Ganga Ram confessing that he is the one who gave fatal injury on the person of the deceased and this Court has no reason to disbelief the said fact, which has not been controverted by learned State counsel.

9. As far as the involvement of the petitioner, as argued by the learned counsel for the complainant, in another case is concerned, reliance can

be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as **“Baljinder Singh alias Rock vs. State of Punjab”** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case also and not with respect to the evidence in the other pending cases. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/ convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

9. In view of the afore-said facts and circumstances as well as the fact that after framing of charges on 06.03.2024, out of total 46 prosecution witnesses only nine have been examined so far, which is suffice for this Court to infer that conclusion of trial shall take considerable time, this Court is of the view that no fruitful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would amount to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the principle “bail is a rule and jail is an exception”, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in **Dataram Singh vs. State of Uttar Pradesh & another 2018 (2) RCR (Criminal), 131.**

10. In the light of the above discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

11. The present petition is hereby allowed.
12. However, it is made clear that anything stated hereinabove, shall not be construed as an expression of opinion on the merits of the case.

23.07.2024
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(SANDEEP MOUDGIL)
JUDGE

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