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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-33763-2024 (O&M)
Date of decision: 02.08.2024

Suraj ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sukesh Kumar Jindal, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 637 dated 27.07.2020, registered under Sections 148, 149, 323, 302, 341 and 120-B of IPC at Police Station City Panipat, District Panipat.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 27.07.2020 on the basis of a complaint lodged by the complainant Pritam Singh alleging therein that on 27.07.2020, on receipt of an information qua his nephew Manpreet @ Sonu lying in a injured condition in Tau Devi Lal Complex street, he had rushed to the spot and found his nephew lying dead. There was head injury on the dead body of the victim and blood was lying splattered from the body. He alleged that on making inquiries at his own level, it was revealed that the petitioner and co-accused Anil, Ashu and Vicky had a verbal altercation with the victim on that day and subsequently, they along with co-accused Sunny,

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Ajay, Golu, Prem @ Goga, Deepak, Suman, Darshana, Ashok and some unknown persons had intercepted the victim at the spot of occurrence and had assaulted him with rods and sticks with an intention to kill him, thereby causing his death. After registration of the FIR, investigation proceedings were initiated. Inquest proceedings and postmortem examination of the dead body was conducted. As per postmortem report, death was due to craniocerebral damage secondary to blunt force trauma to the head. During the course of investigation, on 28.07.2020, some witnesses, namely Amit, Jitender, Sachin, Rishi Gill, Sanjay and Deshbandhu, got recorded their statements alleging that on the fateful night i.e. about 11:00 PM on 26.07.2020, the petitioner and co-accused Anil, Aashu and Vicky had come on a scooty and had abused the victim and also manhandled him within their sight. They further disclosed that after some time, the petitioner and above named three co-accused, by hatching a conspiracy with each other, reached at the spot armed with *lathis*, *dandas* and bricks and had extended beatings to them as well as to the victim. Offence under Section 323 of IPC was added.

3. During the course of investigation, the complainant produced a DVD containing CCTV footage of the scene of crime showing the petitioner, Ashu, Anil and Vicky while assaulting the victim. Some of the co-accused were arrested and they got recovered the weapons of offence. The petitioner was arrested on 15.02.2023. Investigation has since been completed and the petitioner along with the co-accused is facing trial for commission of aforementioned offences. He had moved an application before the trial Court

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for grant of regular bail but the same had been dismissed, vide order dated 15.11.2023.

4. The present petition has been filed by the petitioner on the grounds and his counsel has argued that he has been falsely implicated in this case. In fact, on the fateful day, two incidents had taken place. Though, the petitioner was present with the co-accused at the time when the verbal altercation had taken place between the victim and co-accused, however, his presence at the spot, wherein the victim had allegedly been murdered by the co-accused had not been established. As per prosecution version itself, the CCTV footage showed the presence of the co-accused Aashu, Sunny, Anil and Vicky only at the spot of occurrence. Three of them have already been granted concession of regular bail, whereas co-accused Vicky has not been arrested so far. The petitioner was neither present at the scene of occurrence when the murder took place nor he was the assailant. He himself had surrendered before the Magistrate. He is in custody since 15.02.2023. Five other co-accused have also been extended benefit of regular bail by the coordinate Benches of this Court. At the most, the involvement of the petitioner in the subject crime is by invocation of Section 120-B of IPC. However, there is no evidence to show that he had hatched the conspiracy with the co-accused. He has clean antecedents. His further custody would not serve any useful purpose. Hence, it is prayed that the present petition deserves to be allowed.

5. Status report has been filed by the respondent-State, as per which, the complainant had produced a DVD containing CCTV footage of the

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scene of crime, which showed that co-accused Sunny, Aashu, Anil and Vicky were inflicting injuries on the person of the victim. It is argued by learned State counsel that since in the first incident that took place on the night of 26.07.2020, the presence of the petitioner with co-accused was established and it has come on record that it was in conspiracy with him and other accused that co-accused Sunny, Aashu, Anil and Vicky had murdered the victim by inflicting him injuries on the same night, therefore, his complicity in the subject crime was established. It is argued that the allegations against the petitioner are serious in nature. There are chances of his absconding or intimidating the witnesses, if extended benefit of bail. Therefore, it is urged that the petition is liable to be dismissed.

6. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record carefully.

6. The petitioner along with co-accused is alleged to have a verbal altercation with the victim on 26.07.2020 and on the same night, he is alleged to have been murdered by co-accused Sunny, Aashu, Anil and Vicky. They have since been extended benefit of regular bail by the coordinate Benches of this Court. Some other co-accused have also been extended the same benefit. Admittedly, the CCTV footage did not show the presence of the petitioner at the spot, where the murder of the victim had taken place and it is only on the basis of thorough assessment and evaluation of the evidence to be produced during trial that the complicity of the petitioner in the subject crime of hatching a conspiracy with the co-accused, who actually murdered the victim, is to be established and this Court, while deciding this petition, cannot

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adjudicate upon that question. Keeping in view the discussion as made above, the period of incarceration of the petitioner and also on the ground of parity, I am of the considered opinion that no useful purpose would be served by keeping him in custody anymore.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

02.08.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>