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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-35872-2024
Date of decision:-01.10.2024

NEERAJ

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Anil Kumar Malik, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

SANJIV BERRY, J.(ORAL)

1. Learned State counsel has filed status report by way of affidavit dated 25.09.2024 of Assistant Commissioner of Police, Crime-I, Gurugram, the same is taken on record. Copy thereof, has been supplied to the counsel opposite.
2. The instant petition has been preferred by the petitioner under Section 439 of the Criminal Procedure Code for grant of regular bail in the following case:-

FIR No.	Dated	Sections	Police Station
92	28.05.2023	302, 323, 34 IPC	Bajghera, District Gurugram

3. Arguments heard.
4. It is *inter alia* contended by learned counsel for the petitioner



that the petitioner is innocent and has been falsely implicated in this case. He contends that petitioner is in custody since 03.06.2023 and during course of trial all the material witnesses have been examined by the prosecution including the son of the deceased and also the alleged eye witness who have not lent any support to the case of the prosecution. He submits that prosecution has cited 27 witnesses out of which 8 witnesses have been examined and it will take sufficient long time for the prosecution to examine other formal witnesses. Hence he prays for grant of bail.

5. *Per contra*, learned State counsel referring to the reply and also the additional reply filed today by State has submitted that the petitioner had allegedly caused beatings to the father of the complainant and one Suraj, as a result the father of the complainant had died. He contends that the petitioner do not deserve concession of bail. However he categorically stated that all material witnesses have been examined by the prosecution during course of trial who have not lent any support against the petitioner in the case. He further submits that 18 witness still remain to be examined.

6. After considering the rival contentions and perusing the record, it transpires that as per the allegations the petitioner alongwith co-accused allegedly gave beatings to the father of the complainant and also one Suraj, as a result the father of the complainant namely Rajbir had expired and the petitioner was arrested on 03.06.2023. Admittedly during course of trial the prosecution had examined material witnesses namely complainant-Vij Nandan son of deceased as PW-2, Madan Paswan as PW-3, Cheena PW-6, daughter in law of the deceased, Suraj Paswan injured as PW-7 and Vijay Paswan as PW-8. All these witness happens to be the material witnesses of



the case of the prosecution against the present petitioner. This fact has fairly been admitted by the State in filing the additional reply. Admittedly there is no other material witness to connect the petitioner with the alleged crime left to be examined and the witnesses already examined have not supported the case of the prosecution. The prosecution has yet to examine 18 more witnesses which will take sufficient long time and considering the fact that the aforesaid witness who happens to be material one have not lent any support to the case of prosecution nor have they connected the present petitioner with the alleged crime.

7. In these circumstances, without commenting on the merits of the case, it is observed that no purpose would be served by keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

01.10.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |