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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.35992 of 2024
Date of Decision: 01.08.2024

Mohd Adil ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Talim Hussain, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner seeking regular bail in case arising out of FIR No.274 dated 29.06.2023 initially registered under Sections 120-B, 148, 149, 307, 323 and 506 of IPC and Section 25 of Arms Act, 1959 (For short “Act, 1959”) at Police Station Hathin, District Palwal on the basis of a complaint lodged by the complainant Yahuda Khan alleging that on the same day at about 9:30 AM, accused Asad who was his neighbourer, was passing through his house along with his buffalo. The buffalo hit his younger daughter. The complainant advised Asad to be cautious while taking his buffaloes from the street as small children used to play there. Sometime thereafter Asad

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made a call to the complainant and hurled abuses to him. Thereafter, accused Manzoor, Insaf, Talim, Ashiq, Haseen, Ajju and Jasru along with 5-6 other persons reached at the passage in front of the house of the complainant and started extending beatings to his brother Naif. Accused Manzoor struck a blow with iron rod on the head of his brother. They also called accused Ashfaq, Sahid, Asad and Sappu at the spot. All of them were armed with weapons. Accused Asad fired a shot with a countrymade pistol which hit his brother who fell on the ground. Accused Sahid threw a stone over the person of his brother and all of them left while extending threat to kill him and his family and while proclaiming that they had assaulted them on asking of Yakub who had lost election because of the complainant. The complainant and his brother were rushed to the hospital. While alleging that the condition of his brother was critical, he prayed for taking action.

2. After registration of FIR, investigation proceedings were initiated. The victim Naif succumbed to his injuries and had died on 03.07.2023. Inquest proceedings and postmortem examination of the victim was conducted. The offence under Section 302 read with Section 34 of IPC was added. The accused Yakub, Ajju, Asad, Asfaq, Manzoor, Sappu, Haseen, Sahid, Aashik, Talim, Insaf and Jasru were found to be innocent during investigation whereas on collection of call detail record and location of cell phones of the petitioner and co-accused Wasid, their presence as well as involvement in the occurrence was revealed. Offences under Sections 148, 149, 307, 323 and 506 read with Section 120-B of IPC were deleted.

The petitioner was arrested on 01.07.2023. He suffered disclosure statement

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admitting his involvement in the subject crime. Investigation stands completed and challan has been presented against the present petitioner. The co-accused Rashid was arrested on 08.02.2024 and supplementary challan against him was filed. Some of the co-accused are yet to be arrested. The petitioner had moved an application for grant of regular bail before the learned trial Court which was dismissed vide order dated 06.07.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He was not named in the FIR. He is in custody since 01.07.2023. The trial is likely to take time. Therefore, it is argued that the petitioner deserves to be extended benefit of bail.

4. Per contra, learned State counsel who has advance notice of the petition has submitted that he is ready to argue the matter and has stressed that the allegations against the petitioner are serious in nature as he had caused the death of victim Naif by firing shot with a countrymade pistol upon him. The weapon of offence has been recovered at his instance. The petitioner has criminal antecedents as two more cases bearing FIR No.633 of 2021 registered under Sections 417, 419 and 420 of IPC at Police Station Alwar, Rajasthan and FIR No.39 dated 05.03.2016 registered under Sections 398 and 401 of IPC and 25 of Act, 1959 at Police Station Bahin, have been registered against him. There are chances of petitioner's intimidating the material witnesses who are yet to be examined. Therefore, it is urged that he does not deserve to be given benefit of bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

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6. The petitioner is alleged to have reached at the spot of occurrence while being armed with a countrymade pistol on asking of his brother Yahuda and is further alleged to have fired a shot with his weapon which hit the victim and the firearm injury sustained by whom resulted into his homicidal death. No doubt, the petitioner was not named in the FIR and was nominated as an accused subsequently. However, due to that very reason only, he cannot be held entitled to be released on bail. There are grave allegations against him. The trial has commenced. The material witnesses are yet to be examined. There is nothing on record to show that there would be any undue delay in conclusion of the trial. Keeping in view the severity of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

01.08.2024
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(MANISHA BATRA)
JUDGE

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