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CRM-M-37595-2024
Date of decision : 22.08.2024

....Petitioner

....Respondents

“xxx that I am resident of above mentioned address and is doing private job and on last night dated 3/4/12/2023 morning at around 1:30 AM on my motorcycle bearing



No. CH01BV498 Make Seplendor color silver was going towards my jhuggi Sec-25, Chandigarh on wrong side through university, then at sudden one black coloured vehicle after hitting me fallen me down, at behind of black coloured car, there was also one silver coloured car, which stopped behind that car, from both the cars some boys came out, all were holding wooden rods and iron garari (which falls infront of rod). Among these boys Dharmender of Naya Gaon, Ajay @ Kalu Sec-25 Chd and Spoty of Dhanas, Sabu of Sec-25 Chd and other boys were along with them, whom I can identify on coming in front of me. Dharminder on my standing hit me with the wooden rod that he was holding on my left leg and Ajay @ Kalu hit me with rod on my right leg and after getting injury I got fallen down and Sabu hit me with rod on my right arm and spoty hit again and again on my left arm and the boys came along-with them hit me with rods and iron garari and hit me with legs/fist blow, due to which I sustained serious injuries on my both legs and arms and I raised hue and cry, despite that they kept on beating me, while going Ajay @ Kalu and his other fellows gave me threat to eliminate me and left the spot on their respective vehicles. Dharminder, Spoty, Ajay @ Kalu, Sabu and his other friends along with other friends gave me injuries by giving me beating with wooden rod, rods and iron garari, strict legal action be taken against them, among them one boy was also carrying pistol with him, whom I can identify on coming present before me.”



3. It has been further claimed that during the course of investigation IO Jaimal Singh recorded the statement of the brother of the deceased namely Deepak @ Deepu, who claimed to be an eyewitness to the incident. As per prosecution, Deepak @ Deepu in his statement before the police named the petitioner as well, being one of the persons who attacked the deceased.

4. Counsel for the petitioner submits that from the contents of the FIR, it is evident that the deceased himself nowhere mentioned that he was being accompanied by his brother or *bhabhi*. Rather his specific statement was that he was going on his motor-cycle without referring to any other person who was accompanying him. Thus, it is highly improbable that the brother who is being introduced by the prosecution was eye-witness to the occurrence. Even eye-witness has not specified any role attributable to the petitioner.

5. Ld. Public Prosecutor does not dispute that apart from the statement made by Deepak @ Deepu and his wife Sanjana, there is no other incriminating evidence against the present petitioner. However, he submits that there are three more cases pending against the petitioner.

6. Faced with this situation, counsel for the petitioner relies upon **Prabhakar Tewari vs. State of U.P. and another, 2020(11) SCC 648** and **Maulana Mohd. Amri Rashadi vs. State of U.P., 2012(2) SCC 382**, to contend that the fact of the petitioner being involved in the other cases cannot be a sole ground to decline the bail to the petitioner. He further refers



to the order dated 30th of April, 2024 passed in CRM-M No.20481 of 2024 whereby co-accused namely Sandeep Kumar stands admitted to bail.

- 7. I have heard counsel for the parties and have gone through records of the case.
- 8. Without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
- 9. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

August 22, 2024			(Pankaj Jain)
Dpr			Judge
	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No