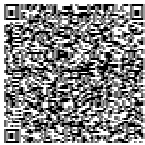


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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-36306-2024 (O&M)
Date of decision: 31.08.2024

Rohit Mandia ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Balraj Gujjar, Advocate
for the petitioner.

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

Mr. Bhisham Kumar Majoka, Advocate
for the complainant.

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. 176 dated 01.10.2023, registered under Sections 148, 149, 323, 324, 379-B, 452, 302 and 506 of IPC (Sections 325, 120-B and 201 of IPC added later on) at Police Station Tigaon, Faridabad.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered at the instance of complainant Rajesh on 01.10.2023 alleging therein that on the same day, he along with his family members was present in his house. At about 08:30 AM, Rakesh Sharma, Rajesh Sharma, Ramesh, Dhanesh, Sandeep, Kallu, Sonu, Mohit son of Dhanesh, Gajender, Naveen, Karambir Sharma, wife of Rakesh Sharma, wife of Dhanesh, wife of Ramesh and son of Karambir entered into

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the house of the complainant armed with rods, dandas and they started giving beatings to the family members of the complainant. Rakesh Sharma gave blows with a rod on the hand, legs and chest of his mother Guddi. Co-accused Karambir gave blows with a rod on the legs, hand and waist of the complainant's father. Co-accused Kallu also gave rod blows on the leg of complainant's brother Rakesh. Co-accused Mohit, Parveen and Kallu gave beatings to Gunjan and Swati, sisters of the complainant, as well as to complainant's father Prabhunath. Co-accused Rakesh Sharma and other assailants also gave beatings to Prabhunath and other family members of the complainant. During the incident, the accused persons also recorded a video of the sisters of the complainant, who were without their clothes at that moment. They also took away an amount of Rs. 20,000/- and some other articles from the house of the complainant. The injured were brought to Central Hospital, Ballabgarh for treatment. During the course of treatment, Prabhunath, father of the complainant, succumbed to his injuries at Central Hospital, Ballabgarh. As alleged by the complainant, the cause of incident was that on 29.09.2023, the accused persons had left open their cattle in the fields of the complainant party, due to which, they suffered loss of the crop and in that regard, they have given a complaint against them and also that they had not voted Rakesh Sarpanch in the Panchayat elections. The complainant prayed for taking strict legal action against the culprits. Inquest proceedings and postmortem examination of the dead body of the victim were conducted. After registration of the FIR, investigation proceedings were initiated. During the course of investigation, disclosure statement of co-accused Mohit s/o

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Dhanesh was recorded, wherein he named the petitioner as one of the assailants. The petitioner was arrested on 16.11.2023. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 10.05.2024.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He was neither named in the FIR nor his presence at the spot had been established. He has been implicated in this case on the basis of the disclosure statement suffered by co-accused Mohit s/o Dhanesh, which cannot be considered to be admissible in evidence. Neither any specific overt act nor any specific injury on the person of victim Prabhunath has been attributed to him. The other co-accused are absconding. Investigation qua the petitioner has been completed. *Challan* stands presented. The material prosecution witnesses have not been appearing before the trial Court to record their statements. Hence, the trial is likely to take a long time. The petitioner is in custody since 16.11.2023. His further detention would not serve any useful purpose. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioner as by forming membership of an unlawful assembly and in prosecution of common object of that unlawful assembly, he and co-accused had opened an assault upon the family members

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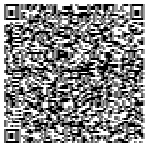


of the complainant and caused injuries to them, thereby causing homicidal death of victim Prabhunath. The allegations against him are severe in nature. There are chances of his absconding, if extended benefit of bail. Therefore, he has argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. As per the allegation, on the night of 01.10.2023, the co-accused and the present petitioner formed an unlawful assembly for the purpose of opening an attack upon the family members of the complainant so as to make them leave the farmhouse, in which they were staying and in prosecution of their common object, co-accused Ravinder, Shankar, Rambal and Mohit s/o Dhanesh had gone towards the farmhouse in a car, whereas co-accused and the petitioner had proceeded on foot towards the said farmhouse and they had opened an assault upon the family members of the complainant. As per the allegations, the petitioner had actively participated in the occurrence. The injuries caused by the petitioner and co-accused to victim Prabhunath resulted into his homicidal death. The allegations against the petitioners are serious in nature. There is nothing on record to show that there would be any undue delay in conclusion of trial. Keeping in view the severity of the allegations levelled against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner is not entitled to get benefit of regular bail, at this stage. Accordingly, the present petition is dismissed.

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7. 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.

31.08.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned Yes

Whether reportable Yes