



CRM-M-44424-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-44424-2024
Date of decision: 7th November, 2024

Vinay

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Kunal Dawar, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.
Mr. Z.S. Chauhan, 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 the house of the complainant armed with rods, *dandas* and 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 clothing 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.

3. As further alleged by the complainant, the cause behind the 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 had given a complaint against them and also that they had not voted for Sarpanch Rakesh in the Panchayat elections. After registration of FIR, inquest proceedings and postmortem examination of the body of the deceased were conducted. During the course of



investigation, disclosure statement of co-accused Mohit s/o Dhanesh was recorded, wherein he named the petitioner as one of the assailants. The petitioner was arrested on 07.12.2023. 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 05.02.2024.

4. 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 and trial is likely to take time. The petitioner is in custody since 07.12.2023. His further detention would not serve any useful purpose. Therefore, it is urged that the petition deserves to be allowed.

5. *Per contra*, learned State counsel assisted by learned counsel for the complainant 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 of the complainant and caused injuries to them, thereby causing homicidal death of victim Prabhunath. The allegations against him are serious 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.

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

7. As per the allegations, on 01.10.2023, the co-accused and the present petitioner hatched criminal conspiracy and also formed membership of an unlawful assembly. In prosecution of common object of that unlawful assembly, the petitioner and co-accused had gone towards the place of occurrence and had opened an attack upon the complainant and his family members and caused injuries to them. Father of the complainant namely Prabhunath succumbed to the injuries sustained by him at the hands of the co-accused and had died. The petitioner is alleged to have given fist blows and kicks to the sisters of the complainant. The name of the petitioner had been taken by the co-accused Mohit. Simply because of the fact that he had not been named at the time of lodging of the FIR does not entitle the petitioner to be released on bail. Keeping in view the fact that huge number of assailants had opened attack upon the members of the complainant party and the name of some of them might have skipped attention of the injured witnesses while recording their statements, the petitioner being part of such



conspiracy and of that unlawful assembly along with the co-accused and is alleged to have actively participated in the occurrence which resulted in homicidal death of the victim and injuries to the complainant and his other family members. The allegations against the petitioner are serious in nature. Keeping in view the gravity thereof, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

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.

9. Since the main petition has been dismissed, pending application, if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

7th November, 2024
Parveen Sharma

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |