



CRM-M-44852-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
224 CRM-M-44852-2024
Date of decision: 16th September, 2024

Rakesh Kumar
...Petitioner
Versus

State of Haryana
...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mandeep Nehra, Advocate for the petitioner.
Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed by the petitioner seeking grant of regular bail in case bearing FIR No. 30 dated 04.02.2024 registered under Sections 148, 149, 323, 324, 506 of IPC, 1860 at Police Station Chhapar, District Yamuna Nagar.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of written complaint submitted by complainant Vijay alleging therein that on 29.01.2024, while he was on way back to his house, he stopped near the local liquor vend of his village to eat eggs, when the petitioner accompanied by co-accused Sahil, Rohit, Goldy and 7-8 other unknown youths, started hurling abuses to him. The petitioner and the others, all of whom were under the influence of liquor, opened an attack upon the complainant. The accused Rohit struck a blow with rod on his left hand, the petitioner gave a blow with some angle type weapon on his left leg and the accused Kalu gave fist blows

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on his head, face and left eye. The others also hit him and caused injuries to him. He raised alarm and then fell down after becoming unconscious. The assailants then fled away. The complainant alleged that he had been discharged from the hospital only on 01.02.2024 and was not in a position to report the matter to the police. Initially, a case under Sections 148, 323, 326 and 506 read with Section 149 of IPC was registered. Subsequently, offences under Section 326 read with Section 34 of IPC were added whereas offences under Sections 148 and 149 of IPC were deleted. The petitioner was arrested on 27.04.2024. The co-accused were also arrested. Investigation has since been completed. An application for grant of regular bail as filed by the petitioner before the learned Additional Sessions Judge, Yamuna Nagar was dismissed vide order dated 08.08.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is unexplained and inordinate delay of five days in lodging of the FIR. No specific act is attributed to him. His test identification parade was not conducted. Offence under Section 326 of IPC has been added after eighty days of occurrence and the same has not been attributed to him. Investigation has since been completed. His custodial interrogation is no more required. He does not have any criminal antecedents. Therefore, it is urged that he deserves to be extended benefit of bail.

4. Status report has been filed by respondent-State. Learned State counsel has argued that there are serious allegations against the petitioner as he in furtherance of the common intention of the co-accused had given fist



blows to the victim thereby causing injuries to him. Therefore, it is argued that the petition does not deserve to be allowed.

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

6. The petitioner along with the co-accused is alleged to have caused injuries to the victim. One of the injuries which was on the head of the victim, had been declared to be grievous in nature. This injury has not been attributed to the petitioner. The subject offences are triable by Magistrate. Trial is likely to take time. No useful purpose would be served by keeping the petitioner in custody anymore. It is well settled proposition of law that bail is the rule and jail is an exception. In view of the discussion as made above, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

16th September, 2024
Parveen Sharma

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