



shouted for help and one person gave a blow on the head of her husband with a sharp edged weapon and he fell down near the bed and the other person exhorted to eliminate him. All the assailants ran away from the spot after inflicting injuries to the husband of the complainant. Her husband was taken to Government Hospital, Kosli, where doctor declared him brought dead.

3. Learned counsel for the petitioner *inter alia* contends that the first petition seeking regular bail to the petitioner was dismissed as withdrawn on 07.02.2022 and the vital blow on the head with the 'axe' has been specifically attributed to the co-accused Vikas and the petitioner is alleged to have given kick and fist blows to the deceased and he has been implicated in the present case with the aid of Section 34 of Indian Penal Code, which could be a moot point to be determined by the trial Court during the course of the trial.

4. Per contra, learned State counsel has filed the status reports dated 20.02.2024 and 26.02.2024, which are taken on record and opposes the prayer for grant of regular bail to the petitioner on the ground that identity of the petitioner has been duly established, as son of the complainant-Nikhil has identified the petitioner as one of the assailants and he is a habitual offender and involved in one more case.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that petitioner has undergone a custody of 03 years 10 months and 13 days as on 26.02.2024. Trial of the case is progressing as snail's pace as out of 32 cited prosecution witnesses, only 18 have been examined so far. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future,

would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. In view of the ratio of law laid down by Hon’ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr.* 2020(1) RCR (Criminal) 831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others* 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. Accordingly, the present petition is allowed. The petitioner-Manish is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

27.02.2024  
Ajay Goswami

(HARPREET SINGH BRAR)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |