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**220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**CRM-M-47756-2023 (O&M)
Decided on : 22.07.2024

Ravinder @ Binna

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent : Mr. Saransh Sabharwal, Advocate
for the petitioner.

Ms. Trishanjli Sharma, DAG, Haryana.

Manjari Nehru Kaul, J.(Oral)**CRM-28850-2024**

Application is allowed as prayed for and document
(Annexure P-4) is taken on record subject to all just exceptions.

Main case

1. This is the petition filed by the petitioner seeking concession of regular bail in case FIR No.37 dated 27.09.2021 under Sections 148, 149, 302, 307, 427 IPC (Sections 201 and 120-B IPC added later on) registered at Police Station Sector 7 District Panchkular.

2. Learned counsel for the petitioner, at the outset, while drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, has argued that a perusal of the same



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clearly reveals that the complainant, who claimed himself to be an eyewitness to the crime in question, had specifically named most of the persons, who had participated in the occurrence in question and who had also inflicted injuries to the deceased Rinku s/o Amarjeet, however, as far as petitioner is concerned, he was not named therein. Furthermore, in the FIR itself, the complainant had categorically stated that there were 4-5 unidentified persons, who were accompanying the co-accused and if they were brought before him, he would identify those assailants. However, while stepping into the witness box, the complainant, who is the most material witness in the present case, had not identified the petitioner, though he had identified two other persons i.e. co-accused Shekhar and Sunil Kumar. Learned counsel has, thus, argued that in the circumstances, petitioner being innocent and having been framed in the present case is discernible. In support, learned counsel has drawn the attention of this Court to the deposition of the complainant (Annexure P-4) wherein also it stands reflected that the complainant had not identified the petitioner and he was declared hostile qua him. Learned counsel still further submits that since all the material witnesses including the complainant stand examined, further incarceration of the petitioner, who has no criminal antecedents, would serve no useful purpose as 36 prosecution witnesses still remain to be examined.



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3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been disputed that the petitioner was not named in the FIR in question and even during trial, the complainant, alleged eyewitness to the crime in question, had failed to identify the petitioner as being one of the assailants, who had accompanied the co-accused and participated in the crime in question. Learned State counsel on further instructions has also not disputed that the petitioner has clean antecedents and is not involved in any other criminal case.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. Before proceeding further, it would be apposite to reproduce the contents of the FIR in question, which are as under:

“Statement of Rinku s/o Suraj Bhan resident of H. No. 152, Power Colony, Phase-2, Sector 19 and age about 34 years Mb.no 77430 52202, stated that I am resident of above address and I am doing the business of sale and purchase of second hand vehicles, On dated 26.09.2021 in the night, I along with my friends Rinku son of Amarjit resident of Ropar and Anand resident of Himshikha Colony, Panchkula were coming to Majri Chowk in my car bearing registration no. HR05-6636, after having dinner at Simran Hotel, Mamta Enclave in Zirakpur. At about 11.30 PM we stopped near Majri Chowk Bus Stop, two cars and two motorcycles stopped near our car and around 10/12 persons got down, who were in possession of swords, gandasi and dandas and they started vandalizing my car with their weapons, then all three of us got out of the car and started running to save our lives and then one of them, Shekhar resident of Maheshpur raised lalkara and said that all these should not be spared. The boys who came



with them namely Joni alias Pardeep resident of Khadak Magauli presently residing at Handesara, Pappi son of unknown resident of Sector 20, Vakeeli son of unknown resident of Kharak Mangauli, Manish alias Bahadur son of Jagbir resident of Kharak Mangauli, Babbi resident of Fatehpur Sector 20, Panchkula, Bada Bahadur son of Mangu and other 7/8 boys, I can recognize them when they come in front of me, in connivance of each other, attacked on Rinku son of Amarjit with their weapons and injured his face jor head and we all ran towards Colony to save our lives, while running I saw Rinku was lying down and everyone was attacking him with weapons. At that time, we were entered in Kharak Magauli to save our lives. Thereafter, about 10/15 minutes, when we came back at the spot then we saw that Rinku was lying dead on the ground and a lot of blood was scattered on the spot Rinku son of Amarjit has been killed by all the above mentioned people together with swords, gandasi or sticks and the same has been done by the above persons due to old rivalry. Legal action should be taken against all of them. I have gave my statement to you in written and I had read the same and same is correct.”

6. Concededly, the petitioner was not named in the FIR in question nor was he identified during trial; rather the complainant was declared hostile qua him. The petitioner has been in custody since 28.09.2021 and the possibility of the trial concluding in the near future seems unlikely as only 8 witnesses out of 44 cited have been examined till date.

7. In the facts and circumstances as enumerated hereinabove coupled with the fact that the petitioner has clean antecedents, this Court deems it fit to extend the concession of regular bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner be



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admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

22.07.2024
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No