



212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49417-2024
Date of decision : 14.10.2024

KUNAL @ CHIRAGPetitioner

Versus

STATE OF HARYANA ...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Sandeep Singh, Addl. A.G., Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.139 dated 26.10.2022 registered for the offences punishable under Sections 147, 148, 323, 325, 302, 427, 120-B of the Indian Penal Code at Police Station Bhupani, Faridabad (Haryana).

2. At the outset, counsel for the petitioner prays that the present petition be treated to be the one under Section 483 of the BNSS 2023.

3. The prayer is allowed.

4. Mr. Vishal Saini, Advocate appears and files his power of attorney on behalf of the complainant today in Court, which is taken on record.

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5. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

6. As per the allegations levelled in the FIR, it was alleged as under :

“To, The SHO, Police Station Bhupani, Faridabad. Sir, it is requested that I Deepika Yadav wife of Sh. Mohit Yadav son of Late Sh. Dilip Yadav am resident of village Deha, Bhupani Faridabad. On dated 25/26.10.2022 time about 12:00 I was waiting for my husband, I was stand on roof in my house, then I heard a voice of noise of some quarrel from west side. From them one man's voice heard that Mohit is here beaten him, then, after hear the noise of quarrel, I have reached quarrel place from the house immediately, then I have see that Mukesh and their sons Kunal and Karan, resident of village Riwajpur, brother in law of Mukesh namely Ardit and alongwith 4-5 persons were more. I have saw that they were beating my husband Mohit and Naveen son of Manoj, then I raised a noise 'bachao-bachao', then they sterted tried to run. After hearing a noise my brother-in-law (devar) Bharat Yadav also came on the spot, then thereafter the police party were also came on the spot. When all these were running, then, iron rod, Kulhari and sticks (dande) were in their hands, then immediately, the police party my husband and Naveen went to the H.K. Hospital, Faridabad, where after checking by the doctor my husband declared a died. And another boy Naveen refer. Those people also damaged our car Baleno HR-29-AU-3004. Sir, it is requested that my husband Mohit Yadav has died from attacked of above mentioned persons. Please, it is requested that strict legal action should be taken against these persons. Thanks Sd/- Deepika Yadav W/o Mohit Yadav, resident of Village Deha, Bhupani, Faridabad-9953910960 dated 26.10.2022.”

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7. Counsel for the petitioner has referred to the report filed under Section 173 Cr.P.C. whereby the conclusion of the investigation revealed as under:

“That as per investigation, it is found that accused Karan, Rahul Chohan and Sanjay caused injury to Mohit Yadav by sticks (Danda) and Mohit Yadav died due to these injuries. That the arrest of the other accused, who caused injuries to Mohit Yadav is pending. Wherein, Vikas @ Sonu and Vicky @ Lokesh are the main kingpin. During investigation it is found that Mukesh and Kunal were not present at the spot and against them only commission of criminal conspiracy has been found. The investigation against Karan, Mukesh, Kunal @ Chirag, Rahul Chohan, Sumit, Vishal, Subham Chohan, Nishant Chohan and Sanjay is complete.”

8. He thus submits that in terms of the conclusion by the investigating agency, the allegation against the petitioner is only w.r.t. being a conspirator and not of being present on the spot. He further submits that co-accused Mukesh stands admitted to bail by this Court vide order dated 18th of September, 2024 in CRM-M No.24188 of 2024 observing as under:

“6. In the present case, the petitioner was arrested on 03.11.2022 and he is in custody for the last about 01 year and 10 months. The injured/eye witness, namely, Naveen Yadav has already been examined by the trial Court, however, the petitioner has not been named as one of the assailants. Apart from that, other co-accused, namely, Nishant, Sumit, Vinay and Rahul Chauhan have also been admitted to bail by this Court. Even the lapse of about two years, the trial has not progressed much and the complainant is not appearing before the trial Court.”

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9. State Counsel though submits that the prime motive is attributed to the petitioner but he is not in position to dispute that so far as the conclusion of the agency is concerned, the role of the petitioner is w.r.t. the conspiracy only.
10. Counsel for the complainant however submits that the issue is pending before this Court wherein the prayer is for reinvestigation.
11. I have heard counsel for the parties and have gone through records of the case.
12. As per the custody certificate the petitioner is behind bars for more than 1 year, 10 months and 16 days and has no criminal antecedents. Keeping in view the parity with co-accused Mukesh, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
13. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

October 14, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No