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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M- 51045-2023
Date of decision:-22.04.2025

ANKUSH @ ANKUSH KUMAR
... Petitioner
Versus
STATE OF PUNJAB
... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Abhey Sher, Advocate for
 Mr. Karandeep S. Sidhu, Advocate for the petitioner.

 Mr. Jatinder Pal Singh, Sr. DAG, Punjab.

SANJIV BERRY, J.(ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case(Annexure P-1):-

FIR No.	Dated	Sections	Police Station
42	19.03.2023	302, 307, 452, 148, 149 IPC	City Malout, District Sri Muktsar Sahib

- 2 Arguments heard.
3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case being the relative of co-accused Jyoti with whom as per the allegations in the case of the prosecution, the deceased was having relationship. He contends that the petitioner has neither participated in the occurrence nor



any specific overt act is attributed to him. He contends that no alleged injury has been caused by the petitioner and he is in custody since 27.03.2023. He contends that after completion of investigation challan has already been presented in Court, and the conclusion thereof, to ascertain criminal liability if any of the petitioner will take sufficient long time, hence prays for grant of regular bail to the petitioner.

4. *Per contra*, learned State counsel referring to the reply submitted by the State has strongly opposed the bail petition by arguing that the petitioner is alleged to have given injury No.1 just above the left eye of the deceased, resulting into fracture in the underlying bone, being the vital part of the body, as such he prays for dismissal of the bail petition.

5. After considering the rival contentions and perusing the record, it transpires that the instant case was registered on the statement of the complainant stating that his son Rahul was having two children and after having settlement with his wife one child was living with Rahul while the other was living with his wife and his son was living with one Jyoti since two years. On fateful day at about 03:20 pm while the complainant alongwith his son was dismantling the roof of the house then the accused Kala Ram armed with ghota, Ankit Kumar @ Kokli armed with iron rod, Viod Kumar armed with baseball bat, Tamanna armed with ghota, Ankush Kumar armed with basebal bat, Rani @ Rano armed with brick, Sunita armed with stick, Monika armed with stick and Sunny armed with baseball bat came there and on the lalkara being raised by accused Kala Ram that they shall teach lesson to them for keeping their daughter Jyoti with them,



all the assailants took away Rahul in the street and Kala Ram gave Gotha blow on the right side of his head, Krishan Kumar also gave ghota, blow on the head of the deceased Rahul, Rani gave brick bat blow on the forehead on the upper side of the left eye of Rahul as a result he fell down on the ground and Ankit Kumar @ Kokli gave iron rod blow on the left side of his head, Vinod Kumar gave baseball bat blow on his head, Tamanna gave ghota blow on his head, Ankush Kumar gave baseball bat blow which hit on his left eye, Sunita gave stick blow which hit right arm, while Monika gave danda blow on right thigh and Sunny gave baseball bat blow on his left thigh, on raising alarm all the assailants ran away from spot, injured was shifted to the hospital where he died.

6. It is evident from the record that as per the allegations levelled in the FIR the injury on the forehead above left eye, recorded as injury No.1 in the postmortem report Annexure P-3 is specifically attributed to Rani @ Rano and the allegations that on receiving such injury the deceased had fallen on the ground. So far the petitioner is concerned the allegations levelled in the FIR are that after the deceased fell down on the ground the petitioner had given baseball bat blow on the left eye of the deceased, however perusal of postmortem report would reveal that no such corresponding injury on the left eye of the deceased was recorded therein. Although as per the police version one baseball bat has been recovered from him but it is debatable whether the same was used in the occurrence or not as *prima facie* no corresponding injury is evident from the postmortem report. The petitioner is in custody since 27.03.2023 and after completion of



investigation challan has already been presented in Court wherein 28 witnesses have been cited by the prosecution and till date only two witnesses have been examined. The conclusion of trial, to ascertain criminal liability, if any, of the petitioner will take sufficient long time, therefore, no purpose would be served by detaining the petitioner any longer in custody.

7. In these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

9. Pending application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

22.04.2025

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No