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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-41272-2024

Date of Decision: January 24, 2025

AMIT ALIAS SHAMBHU

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vikram Rana, Advocate for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

HARKESH MANUJA, J. (ORAL)

1. By way of present second petition filed under Section 439 CrPC, prayer has been made for grant of regular bail in case FIR No. 273 dated 27.06.2022 registered under Sections 147, 148, 149, 323 and 506 of IPC (Sections 302, 201 and 120-B of IPC were added later on) at Police Station S.G.M. Nagar Faridabad, wherein, the petitioner has been implicated for having given injuries upon the person of deceased-Deepak along with his other accomplices. Relevant extract from the aforementioned FIR is reproduced hereunder:-

"I Vikas s/o omparkash pandey resident of auto peen tilak nagar Faridabad .On dated 26.06.2022 near about 7:00 pm I, Deepak, Vinod reached near the wine shop no 3 by motorcycle. We were standing there at the side that Amar chand ,Mangal s/o prem / Golu , s/o Amarchand, Chintu s/o Ram Avtar, Ghetta S/O Vursali the son of Ramesh and other 10 boys were came with swords, iron rod, sticks in their hands. Then amar chand said to his company that he is same Deepak whose teach a lesson by us as beforely but still he is not agree with me. Being old rivalry amar chand, Mangal and other boys run for beaten to Deepak then Deepak run for save himself after that they caught to

Deepak and struck down at near the shop of mechanical and mangal started beaten to Deepak by rod and all other also started beaten by swords, rod, sticks after that left to Deepak in dead condition they run from that place.”

2. Learned counsel for the petitioner submits that investigation already stands concluded with the filing of challan followed by framing of charges and even the complainant stands examined. He also submits that the custody of the petitioner is around 2 years and 6 months and the petitioner is not involved in any other case. He further points out that the recovery of weapon i.e. a motorcycle chain was effected from the petitioner from his house after 1½ month of the incident and thus, in such circumstances, the petitioner deserves concession of bail.

3. On the other hand, prayer made herein has been vehemently opposed at the instance of learned State counsel while submitting that the petitioner actively participated in the incident in question and inflicted injuries upon the person of Deepak along with other accomplices. He further points out that even a motorcycle chain was recovered from the house of the petitioner. Learned State counsel further submits that the petitioner could even be identified in the CCTV footage which forms part of the challan, thus, the petitioner does not deserve the concession of bail.

4. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

5. In the present case, investigation stands concluded with the filing of challan followed by framing of charges and the petitioner is in custody for the last 2 years and 6 months and is not involved in any other case. The petitioner has not been specifically named in the FIR. Even the recovery of motorcycle chain(weapon) was effected from his house after around 1½ month of the occurrence. Though, the complainant Vikas while appearing as PW-1 identified the petitioner in Court, however, in his examination-in-chief, he never named the petitioner specifically nor even the CCTV footage as alleged by the learned State counsel forming part of the investigation was ever put to the complainant as regards the identification of the petitioner being present at the time of occurrence. Besides it, the petitioner is a young boy of 22 years of age. Considering the aforesaid facts and circumstances, this Court does not find justification to extend his incarceration any further.

6. In view of the above, without commenting anything on the merits, lest it may prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

7. Nothing construed herein shall be treated as an expression of opinion on the merits of the case.

24.01.2025

Tejwinder

**(HARKESH MANUJA)
JUDGE**

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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i> | <i>Yes/No</i> |