



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc. Bail Application No. 11786/2022

Kuldeep S/o Val Ji, aged about 20 years, resident of Sallada,
Police Station Sarada, District Udaipur.
(At present lodged in Sub Jail Salumbar)

-----Petitioner

Versus

State of Rajasthan through PP

-----Respondent

For Petitioner(s) : Mr. Pradeep Shah.
For Respondent(s) : Mr. Arun Kumar, PP with
Mr. C.P. Marwan.

HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI

Order

REPORTABLE

01/08/2024

1. The prayer made in this bail petition filed under Section 439 of the Code of Criminal Procedure (for short "the Code") is for grant of bail in connection with crime registered pursuant to First Information Report Number 48/2022 of Police Station Sarada, District Udaipur, in respect of offences punishable under Sections 302/34 of the Indian Penal Code, 1860.

2. Let me give a very brief factual backdrop to understand the entire matter in the right perspective which is that Manohar Singh lodged a report about the murder of his brother Chandan Singh stating that on 06.03.2022, his brother was returning home from Sallada village on a motorcycle. VP Singh, Dilip Singh and their other companions, who were sitting in ambush near a culvert situated by Kuldevi temple, attacked Chandan Singh with swords,



sticks and knives causing serious injuries and ultimately murdered him.

3. To begin at the beginning Shri Pradeep Shah, learned counsel representing the petitioner has fervently argued that statement of 08 witnesses have been recorded during the trial and most of them have turned hostile. Petitioner was not named in F.I.R., nor were any allegations levelled against him. The principal accused of incident is VP Singh.

4. It is further argued that the petitioner is innocent person and a false case has been foisted against him; that entire allegations so leveled by the police against the petitioner is totally false and baseless; that nothing has been recovered from possession of the petitioner; that there is no concrete evidence to show direct nexus between the petitioner and alleged crime, rather case of the prosecution is based on surmises and conjectures instead of sound legal evidence. With the aforesaid submissions, it was prayed that the present petition be allowed and petitioner may be enlarged on bail.

5. Learned Public Prosecutor has opposed the release of the petitioner on bail at this stage on the ground that this is a case of day light murder committed in furtherance of common intention.

6. It was further argued that there is overwhelming evidence adduced on record which would *prima-facie* point towards the guilt of the applicant; that keeping in view the gravity of offence alleged to have been committed by him, he does not deserve any



leniency, rather he needs to be dealt with severely. He thus, craves rejection of the petitioner's bail application.

7. This Court has carefully perused the record as well as considered the submissions made by learned counsels for the parties.

8. Having given anxious consideration to the rival submissions and having examined the record with reference to the law applicable, I am clearly of the view that present is a case of murder in retaliation to a years old grudge. Petitioner was not only a participant of the plan prepared to murder Chandan Singh but also accompanied the principal accused VP Singh on his motorcycle to the crime scene. He had knowledge of the crime being committed. He was also present near the crime scene and ensured that the incident was completed smoothly, for that purpose he kept an eye on the surrounding movements. In such a situation if the petitioner has not taken active part in the murder of Chandan Singh, by actually and physically attacking him, the gravity of his role and crime does not decrease in any way. Considering the alleged role of the petitioner, the statements of witnesses recording during the trial do not come to rescue the petitioner.

9. Direct evidence of common intention is always difficult to obtain and its existence, which is an essential ingredient of constructive liability, has invariably to be deduced from surrounding facts, which is possible only when sufficient amount of evidence is recorded during trial qua this factor.



10. In view of the enormous *prima facie* material placed on record in respect of the applicant, the allegations leveled against the petitioner, I am of the considered view that looking to the nature and gravity of the accusation in the instant case, the role attributed to the petitioner and the case set up against petitioner in its entirety, the petitioner is not found entitled to be released on bail.

11. Consequentially, instant bail petition fails and deserves to be dismissed. Dismissed accordingly. Observations made in the order shall have no impact on the merits of the case.

12. Copy of this order be emailed to the Trial Court concerned.

(RAJENDRA PRAKASH SONI),J

Mohan/-