

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

CRM-M- 13342 of 2015

Date of Decision: 14.05.2015

Raj Kumar @ Nitu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rakesh Nehra , Advocate
for the petitioner.

Mr. Pradeep Parkash Chahar, DAG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

From the last date of hearing the question was narrowed down to find whether alleged conspiracy was hatched by the petitioner while on bail or in jail premises. The stand taken by State was that petitioner was on bail and the disclosure of co-accused Naresh @ Sethi shows that conspiracy was hatched by petitioner when he was on bail in case bearing FIR No.197/09 under Section 307, 302 IPC read with Section 25 of the Arms Act.

This Court on 01.05.2015 passed the following order:-

“Petitioner seeks regular bail in FIR No.453 dated 30.12.2011 registered under Sections 302/ 148/ 149/ 120-B IPC and under Section 25 of the Arms Act at Police Station Sampla District Rohtak.

Complainant alleged blind occurrence when his brother came to see naka in the field. 5-6 unknown persons appeared from bushes and opened fire. Complainant was at a distance of about 1/ ½ killa away from the place of occurrence that took place at night. Petitioner has been implicated with the aid of Section 120-B IPC i.e. on the basis of disclosure

statement of co-accused Naresh @ Sethi.

Learned counsel for the petitioner states that out of total ten accused, one Rakesh has died. Out of remaining nine accused persons, police investigation shows that six accused, namely, Naresh @ Sethi, Sandeep @ Kala, Surender, Jaibhagwan @ Sonu, Rajkumar @ Raju and Rohit were present at site at the time occurrence. Remaining three accused, namely, Rajesh, Sombir and the present petitioner have been implicated with the aid of Section 120-B IPC. The firing has been attributed to Jaibhagwan @ Sonu and Naresh @ Sethi.

Learned State counsel, on the other hand, states that the petitioner is also involved in four other cases i.e. FIR No. 197/09 under Sections 307, 302 IPC read with Section 25 of the Arms Act; FIR No. 149/09 under Section 25 of the Arms Act; FIR No.257/12 under Sections 420 IPC and FIR No. 57/ 13 under Section 42 of the Police Act.

Learned State counsel states that except in FIR No.197/09, petitioner is already on bail. Disclosure of co-accused Naresh @ Sethi shows that conspiracy was hatched when the petitioner was on bail in case bearing FIR No.197/09 under Sections 307, 302 IPC read with Section 25 of the Arms Act.

The aforesaid contention is vehemently refuted by learned counsel for the petitioner, saying that the petitioner was never granted bail in the aforesaid case. Be that as it may, let necessary information be furnished by the learned State counsel on the point whether the petitioner was ever granted bail in the aforesaid case?

Let necessary information be furnished by 14.5.2015.”

Today Mr. Chahar, DAG, Haryana on instructions from

ASI Bijender Singh states that factum of the petitioner being on bail could not be verified, but at the same time states that petitioner was in jail. Further it has been submitted that mobile has been recovered from co-accused Sombir from the jail premises on 14.01.2012. On strength of aforesaid recovery from co-accused, it is being projected that conspiracy was hatched by the petitioner with the help of said mobile allegedly recovered from co-accused namely Sombir. No incriminating material has been collected by the police in respect of matching configuration of call details of the said mobile with that of other co-accused.

Looking to the aforesaid, at this stage it cannot be presumed whether petitioner was on bail at the time of hatching conspiracy.

Without commenting upon the merits of this case, at this stage, it is ordered that petitioner be granted regular bail in case bearing FIR No.453 dated 13.12.2011 under Sections 302/148/149/120-B IPC and under Section 25 of Arms Act at Police Station Sampla District Rohtak on his furnishing adequate bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate, Rohtak.

Nothing expressed hereinabove would be taken to be an opinion on merits of the case.

May 14, 2015
prince

(RAJ MOHAN SINGH)
JUDGE