

CRM No. M-18872 of 2015
DECIDED ON: JULY 20, 2015

.....PETITIONER

.....RESPONDENT

- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Mr. D.R. Singla, DAG, Haryana.

JASPAL SINGH, J (ORAL)

Instant petition has been preferred by Rakesh Sharma under Section 439 Cr.P.C. seeking regular bail during the pendency of trial in case FIR No. 259 dated 11.08.2014 under Sections 302/120-B/34 IPC and Sections 25/54/59 of Arms Act and Section 3 (2) 5 of Scheduled Caste and scheduled Tribes Act, Police Station City Rewari, Rewari.

2. The case of prosecution, as unfolded by Naveen @ Badshah while making statement on August 11, 2014 before the police is that he and Pawan had gone to the house of Pardeep @ Chhotu situated at Gandhi Nagar, Rewari in Ritz Vehicle No. HR-36-4200 belonging to Baljeet and they stopped their vehicle near the house of Pardeep. The complainant further alleged that when they were returning from the house of Pardeep and reached near the vehicle, accused Sandeep @ Soni, Sunil , Aakash @ Damchi were found there along-with pulsar

motorcycle of black colour and they all of sudden fired on Baljeet with their country made pistols. Accused Sandeep shot fire on the head of Baljeet. Accused Sunil shot fire on the head and right ribs of Baljeet and accused Aakash @ Damchi shot fire on right ribs of Baljeet and thereafter, they all fled away from the spot on their motorcycle. Baljeet was taken to Rockland Hospital, Manesar where he was declared dead by the doctor. The complainant further alleged that about one year ago, a case under Section 307 IPC was registered against Sandeep etc. and in that case Sunil, elder brother of complainant, had given evidence in the court against accused Sandeep etc. On the basis of the statement of complainant, the present case was registered.

3. The contention of learned counsel for the petitioner is that during investigation of this case Sandeep was arrested by the police on August 15, 2014 and when he was subjected to interrogation he made disclosure statement and on the basis of his disclosure statement, Rakesh Sharma-petitioner was arrested by the police on August 16, 2014. He was also alleged to have been subjected to custodial interrogation during which he also suffered his disclosure statement. In pursuance of which he is alleged to have been got recovered a country made pistol used in the crime. In fact, he has been falsely implicated in this case. Complainant is habitual criminal and large number of cases have already been registered against him. Petitioner is in custody since the date of his arrest i.e. August 16, 2014. Report under Section 173 Cr.P.C. has also been presented and trial is in progress. In the given circumstances, petitioner is not required for further interrogation/investigation. He also undertakes to abide by all the terms and conditions imposed by this Court in case he is granted the concession of bail.

3. Per contra, learned State counsel has strongly opposed the submissions

made by learned counsel for the petitioner submitting that no doubt the name of petitioner has figured in the disclosure statement made by his co-accused Sandeep but when he was subjected to custodial interrogation, he also suffered disclosure statement in pursuance of which he got recovered a country made pistol used in the crime and as such, he does not deserve the concession of bail.

4. This Court has given an anxious thought to the contentions raised by learned counsel for the parties and have perused the record available on file.

5. Undoubtedly, Sandeep who is alleged to have played a main role suffered disclosure statement unfolding the name of petitioner as well as his role which led to the commission of murder of Baljeet. In pursuance of disclosure statement suffered by Sandeep co-accused of the petitioner, petitioner was arrested and subjected to custodial interrogation and also suffered disclosure statement with regard to his role as well as weapon used by him in the commission of offence. Subsequent thereto, in pursuance of his disclosure statement, he got recovered a country made pistol, which was taken into possession by Investigation Officer. Since the participation of petitioner in the crime is *prima facie* established, he does not deserve the concession of bail even if he is in custody since the date of his arrest i.e. August 16, 2014.

6. Accordingly, instant petition is dismissed.

JULY 20, 2015
SHAM

(JASPAL SINGH)
JUDGE