

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

CRM-M-19344 of 2015
Date of Decision: 15.06.2015

Dharambir @ Billu

. . . .Petitioner

Versus

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.APS Mann, Advocate, for the petitioner.

Dr.Sushil Gautam, DAG, Haryana.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has prayed for regular bail under Section 439 of the Code of Criminal Procedure, 1973 [for short 'the Cr.P.C.] in a case FIR No.345 dated 28.9.2013 registered under Sections 302 & 34 of the Indian Penal Code, 1860 [for short 'the IPC'], Section 25 of the Arms Act, 1959 and Sections 3(1)(i) and 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Sadar, District Rohtak.

The FIR has been registered by Naveen, alleging that his brother Yogesh was given a knife blow by Amit, while the petitioner had caught-hold of him with other co-accused. Initially, the petitioner was not sent for trial and kept in Column No.2 in the Challan but later on by way of an application filed under Section 319 of the Cr.P.C. which was allowed on 14.1.2015, the petitioner was summoned as a co-accused and is in custody since then.

Learned counsel for the petitioner has argued that except the role of catching hold of the deceased, there is no role attributed to the petitioner and there is no other criminal case pending or decided against him. It is also submitted that out of total 28 witnesses of the prosecution, 8 private witnesses including the alleged eye witness namely, Naveen, who happened to be the brother of Yogesh, has turned hostile.

It is also submitted that there is only one stab injury on the chest of the deceased which was not even repeated by the alleged assailant Amit. The petitioner had earlier approached this Court for anticipatory bail by way of CRM-M-4470 of 2015 which was dismissed as withdrawn on 11.2.2015 and thereafter an application was filed before the Court below for regular bail which has been dismissed on 29.4.2015 and subsequently on 20.5.2015 only on the ground that the petitioner was present at the scene of occurrence along with the main assailant.

Learned counsel for the respondent has submitted that the role attributed to the petitioner is of catching hold of the deceased which itself is sufficient to hold his complicity in the serious offence of murder for which the petitioner should not be granted bail.

After hearing learned counsel for the parties and examining the record but without observing anything on merit, I am of the considered opinion that the petitioner deserves concession of bail because all the 8 private witnesses have already turned hostile and it has been stated by Naveen, who has appeared as PW3, that he had not even seen any occurrence of the nature for which the FIR was registered.

In view of the aforesaid, the present petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the CJM/Duty Magistrate, Rohtak.

15.06.2015

Vivek

(RAKESH KUMAR JAIN)
JUDGE