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

**CRM-M No.19618 of 2015
Date of Decision: 17.07.2015**

Subhash

....Petitioner

Vs.

State of Haryana

...Respondent

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

Present: Mr. A.P.S. Deol, Senior Advocate with
Mr. H.S. Mavi, Advocate
for the petitioner.

Mr. Yashwinder Singh, D.A.G., Haryana.

Mr. R.S. Mamli, Advocate
for the complainant.

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?***

RAJ MOHAN SINGH, J.

[1]. Prayer made in this petition is for grant of anticipatory bail in case bearing FIR No.514 dated 09.08.2014 under Sections 302/34/120-B IPC and Section 25 of Arms Act, P.S. City Fatehabad, Distt. Fatehabad.

[2]. Petitioner-Subhash Nai and Sonu Arora have been summoned under Section 319 Cr.P.C., to face trial under Sections 120-B, 302 IPC read with Section 34 IPC vide order dated 15.05.2014 passed by Additional Sessions Judge-I, Fatehabad.

[3]. Complainant-Banty lodged the FIR in question with the allegations that on 09.08.2014, his brother Bharat left home on a motorcycle at about 09.00 p.m. in order to purchase biscuits for his dog. He went towards bus stand where the complainant was also present in front of bus stand. Brother of the complainant purchased biscuits from a tea vendor in front of bus stand and when he was making payment, four persons came on a motorcycle and stopped near his brother. One of them fired at his brother Bharat from behind due to which he fell down and the assailants fled away from the spot. The person who fired was identified by the complainant as petitioner -Subhash Nai. Other assailants were identified as Nupi Naik, Gharonda Naik and Sonu Arora.

[4]. Complainant further alleged that Satish @ Chikna, his father Rai Singh and Sheelu Gujjar were also involved in the murder of his brother as about 10 days ago, Satish @ Chikna had a quarrel with Bharat and got a criminal case registered against him. Satish @ Chikna, his father Rai Singh and Sheelu Gujjar had also threatened to kill his brother.

[5]. During investigation Police has found that Bharat was got murdered by Gulshan Kumar who had given supari to Vinod @ Dholia. Gulshan Kumar is alleged to have made extra-judicial confession before one Vikram Singh regarding his hiring Vinod @ Dholia for the commission of this crime. Confession of Gulshan Kumar before Police was that Krishan Kumar, Sharwan, Deepak Kumar @ Deepu and Ajay Naik had hired services of Vinod @

Dholia.

[6]. The prosecution has built up a case that the deceased Bharat was got murdered by Gulshan Kumar who had given blood-money to Vinod @ Dholia to get him murdered as he feared that Bharat would either kill him or get him killed for having accepted Rs.28 lacs to compromise with Gaurav Bhirdana etc. friend of Bharat in a case under Section 307 IPC.

[7]. An application under Section 319 Cr.P.C., was moved for summoning Subhash Nai (petitioner), Sonu Arora, Satish @ Chikna, Rai Singh and Sheelu Gujjar as additional accused to face trial in the present case. The complainant Banty made a statement on 13.05.2015 before the trial Court that he did not press the application under Section 319 Cr.P.C., against Rai Singh and Satish @ Chikna. Qua Sheelu Gujjar trial Court dismissed the application thereby opining that no sufficient material could come against him for his summoning under Section 319 Cr.P.C. Accordingly petitioner Subhash Nai and Sonu Arora were ordered to be summoned under Section 319 Cr.P.C., by the trial Court.

[8]. Learned counsel for the petitioner has submitted that petitioner has been found innocent during course of investigation and no custodial interrogation is required as according to investigation of the Police some different persons found to have been involved in the present case. Ravinder Kumar @ Poppy has been granted concession of bail. Since all the named four persons have been found to be innocent, therefore role of Gharonda Naik @

Chander Sagar and Nupi Naik @ Anup is also that of giving information about movements of deceased to Vinod @ Dholia and the case is at par with Ravinder Kumar @ Poppy who has been granted bail.

[9]. Statement of complainant in the FIR as well as PW-2 is consistent thereby involving all the four named accused in the FIR as well as in the statement. Petitioner Subhash Nai is alleged to be the person who fired upon Bharat and Nupi Naik, Sonu Arora and Gharonda Naik @ Chander Sagar are the other three assailants who came along with Subhash Naik on the motorcycle.

[10]. Seeing the consistency in the statement of the complainant, petitioner is not entitled to the benefit of anticipatory bail. Consequently, prayer for grant of anticipatory bail is hereby declined.

[11]. Nothing expressed hereinabove would be construed to be an expression upon merits of the case.

July 17, 2015

Atik

(RAJ MOHAN SINGH)
JUDGE