

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

CRM-M-2381 of 2015

Date of decision: 09.03.2015

Aas Mohammad @ Ashu

....Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

Mr. Charanjit Singh Bakshi, Addl. A.G., Haryana
for the respondent-State

Jaspal Singh, J.(Oral)

The present petition has been preferred under Section 439 Cr.P.C., for grant of bail in case FIR No.42 dated 10.02.2013, under Sections 302, 201, 120-B and 24 IPC registered at Police Station Sadar Rohtak, District Rohtak.

The instant FIR was registered on the basis of statement of Karambir Sarpanch r/o Shri Partap Singh, r/o Village Bahuakbarpur, District Rohtak against some unknown persons, who had reported the matter to the police on seeing a dead body of unidentified person lying on the down-side of the road in the area of his village and investigation was put into motion.

The police recorded statement of Jai Pal, father of

deceased Satish under Section 175 Cr.P.C. while carrying out the inquest proceedings in respect of the dead body. Even in that statement, neither name nor any role played by the petitioner did figure. Similarly, statements of other family members including the brother of deceased Satish namely Bijender @ Kala was also recorded on the similar lines.

After about 12/13 days of the registration of the FIR, supplementary statement of Jaipal and his son Bijender were recorded. Subsequent investigation of this case, it revealed that Ms. Sudesh wife of Satish was having illicit relations with her co-accused Naveen. When Satish as well as his other family members came to know about this fact, the relations between the husband and wife became strained thereafter a conspiracy was hatched by Sudesh and her co-accused Naveen to eliminate the deceased. In order to execute the said plan, Naveen approached Aas Mohammad-petitioner/accused for help who introduced Naveen with Shokat Ali and Nasir. Ultimately, the deal was settled to kill Satish for a sum of Rs.2,00,000/- and a sum of Rs.5,000/- was paid as advance to each of them. As per the plan, Sudesh took her husband for outing where Naveen came in their contact, thereto, the dead body of Satish was found.

The contention of the learned counsel is that petitioner has been falsely implicated in the instant case on the basis of

alleged confessional statement suffered by his co-accused. There is no direct or circumstantial evidence against the petitioner and his name did not figure either in the FIR which was got registered by Karambir Sarpanch or initial statements of Jai Pal and Bijender. It was only after lapse of 12/13 days a new story was coined by Jai Pal and Bijender. Even at that time, name of petitioner did not figure except in disclosure statement of co-accused which is otherwise not admissible. There is no either oral or documentary evidence collected by investigating agency to connect the petitioner with alleged commission of murder of Satish. Moreover, Nasir co-accused of the petitioner, who was similarly placed, has already been granted the concession of bail. The applicant is in custody since March 13, 2013 i.e. approximately for a period of two years.

Challan has already been presented and in such circumstances, petitioner is not required for further investigation.

On the other hand, learned State counsel has submitted that the trial is at its final stage and out of 30 witnesses cited in the list of witnesses, 24 witnesses have already been examined and now the case is fixed for March 20, 2015, for remaining evidence of the prosecution. Moreover, there are serious and specific allegations against the present petitioner that he connived with his co-accused and chopped off the life of Satish, so that the relations

in between Ms. Sudesh and Naveen could go smoothly that too after availing pecuniary benefit.

This Court has given an anxious consideration to the facts and submissions and has perused the records. The mere fact is that the name of the applicant-Ashu did not figure in the FIR or in the statements of Jai Pal and Bijender, recorded under Section 175 Cr.P.C., does not ipso facto mean that petitioner has nothing to do with the commission of murder of Satish. Entire case is based upon circumstantial evidence and there is no direct evidence. The FIR was registered against unknown persons. The name as well as the role played by petitioner appeared in the disclosure statement of Naveen and others. The case of the petitioner cannot be equated with his co-accused Nasir as he had just kept a watch when alleged plan to eliminate Satish was carried out by Naveen and his cronies.

Since the trial is at penultimate and 24 witnesses have already been examined out of total 30 witnesses. Now case is listed for March 20, 2015, for the remaining evidence.

In view of the aforementioned discussion, this Court does not find any merit in the instant petition. As such, the same is dismissed, however, prosecution is directed to conclude its evidence as early as possible so that the trial could be disposed of without any undue delay.

March 09, 2015

m. sharma

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I attest to the accuracy and
integrity of this document

(JASPAL SINGH)
JUDGE