

In the High Court of Punjab and Haryana at Chandigarh

CRM-M-27002 of 2014
Date of Decision: 20.01.2015

Sanjay alias Kala

---Petitioner

versus

State of Haryana

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Shalender Mohan, Advocate
for the petitioner

Mr. Rajesh Gaur, Addl. A.G.Haryana
for the respondent-State

Mr. Manoj Kumar Singla, Advocate
for the complainant

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

REKHA MITTAL, J.

The accused has filed the second application for release from custody pending trial before the Court of Sessions pertaining to FIR No. 131 dated 1.4.2013 registered in Police Station, Barwala for offence punishable under Sections 302, 120-B read with Section 34 of the Indian Penal Code (in short "IPC") and Section 25 of the Arms Act, in regard to killing of Sehdev.

Counsel for the petitioner contends that the present petition is maintainable in view of the changed circumstances that subsequent to

dismissal of his earlier application for bail on March 14, 2014 (CRM-M-1948 of 2014), the co-accused in the case namely Ramphal son of Kanshi Ram has been allowed bail who has also been indicted in the crime being one of the conspirators in committing murder of the deceased by Anil Kumar and Manoj Kumar, present at the spot. It is argued that keeping in view principle of parity coupled with the period of incarceration of the petitioner alongwith the fact that conclusion of trial is likely to take its own time, the petitioner may be released on bail

Counsel for the State has seriously opposed the prayer for bail with the submissions that this Court while disposing of earlier petition filed by accused Sanjay @ Kala has taken into consideration gravity of allegations against him on the basis whereof it has been observed that the petitioner is the kingpin in the crime and he planned and managed murder of Sehdev by engaging co-accused Manoj Kumar and Anil Kumar for killing the deceased.

I have heard counsel for the parties and perused the records.

Before advertng to the submissions made by counsel for the parties, it is material to extract a relevant part of the observations made in order dated March 14, 2012 while declining prayer of the petitioner for release on bail, which reads as follows:-

“3.During the course of investigations, it has transpired that co-accused Manoj had been associated by the petitioner for the purpose of killing Sahdev and had himself not killed Sahdev. During the course of investigation, it has also been revealed that the

petitioner had professional rivalry with the deceased, whereas non-applicant co-accused Manoj had neither any personal axe to grind nor had any inimical relations with the deceased and was acting only as stooge of the petitioner to kill Sahdev. Investigations have further revealed that when the petitioner was continuing as an under-trial inter-alia in a case of murderous assault under Section 307 IPC in Central Jail, Hisar, he had planned and managed murder of Sahdev by engaging non-applicant co-accused Manoj and Anil for killing of Sahdev.

4. During the course of investigations, the petitioner had also subscribed to this line of investigations, though probative value of such subscription from the accused himself is to be seen at the time of the trial. In view of these circumstances, plea of the petitioner that neither he is named in the FIR nor in the supplementary statement of the complainant, pales into insignificance. Name of the petitioner-accused as one who was calling the shots had engaged Anil and Manoj as killers prominently appears in the statement of Anil (10.4.2013) and Manoj (11.4.2013)."

Counsel for the petitioner has failed to convince the Court if any such allegations have been levelled against Ramphal son of Kanshi Ram though he has also been indicted in the crime being one of the

members of the party, who conspired together to kill Sehdev. In this view of the matter, the petitioner can neither seek parity for release on bail on the basis of co-accused Ramphal being given benefit of bail by the Additional Sessions Judge, Hisar nor can plead change in circumstances.

Dismissed.

(REKHA MITTAL)
JUDGE

20.01.2015

PARAMJIT