

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30503-2015 (O&M)
Date of Decision: October 5, 2015

Rameshwar Dayal Giri

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Ashit Malik, Advocate,
for the petitioner.

Mr. Sanjay Kumar, AAG, Haryana,
for the respondent.

Mr. Sanjay Vashisht, Advocate,
for the informant.

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?*

NARESH KUMAR SANGHI, J (Oral)

CRM-29412-2015:

Criminal miscellaneous application for exemption is
allowed in terms of the prayer made, subject to all just
exceptions.

CRM-M-30503-2014:

Prayer in this petition, filed under Section 439, Cr.P.C.,
is for grant of bail to the petitioner, Rameshwar Dayal Giri, son of

Shambhu Dayal Sher Singh, resident of village Garhwal, Police Station, Baroda, District Sonapat, who has been booked for having committed the offences punishable under Sections 120-B, 148, 302, 307, 323 and 449 read with Section 149, IPC, and Section 25 of the Arms Act, in a case arising out of FIR No. 48, dated 26.5.2014, registered at Police Station, Mansa Devi Complex, Panchkula.

Learned counsel for the petitioner submits that even if the whole case of the prosecution is taken at its face value, then also the essential ingredients of the offences for which the petitioner has been booked are not attracted qua him. The best material available with the prosecution to connect the petitioner is the disclosure statement of Ajay Kumar, co-accused of the petitioner, saying that the petitioner and his two co-accused had instigated him to commit murder of Ashutosh. He further points out that after completion of the investigation, the charge-sheet (challan) has been presented and perusal of the documents would reveal that neither the petitioner was present at the spot nor he caused any injury to the deceased. He further points out that the petitioner is more than 82-year of age and the observations made by learned Court below would reveal that

during course of trial he (petitioner) was brought in a lying condition on a blanket by four police officials, since he was unable to stand on his legs.

Learned counsel for the State very fairly concedes that except the disclosure statement of Ajay Kumar, co-accused of the petitioner, there is no other legal material to connect the petitioner with the murder of Ashutosh. He further admits that the petitioner is aged about 82-year and unable to stand on his legs, therefore, four policemen were carrying him to the Court to attend his case.

Learned counsel for the informant has vehemently opposed grant of bail to the petitioner on the premise that the trial is at an advance stage and bail application of the co-accused was dismissed on the said score. He further points out that if the petitioner goes out of the jail in view of his health condition, he would not be in a position to attend the Court proceedings and the trial would be delayed.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Concededly, there is no legal material to connect the

petitioner with the murder of Ashutosh, except the disclosure statement of Ajay Kumar, co-accused of the petitioner. The petitioner is stated to be 82-year old and his health condition is not good. During trial, he was brought to the Court in the lying posture by four policemen. The material witnesses have already been examined, therefore, further incarceration of the petitioner is not of any consequence.

Keeping in view totality of the facts and circumstances of the case, the present petition is allowed. The petitioner, Rameshwar Dayal Giri, son of Shambhu Dayal Sher Singh, resident of village Garhwal, Police Station, Baroda, District Sonapat, is directed to be released on bail during pendency of the trial of the present case subject to his furnishing bonds in the sum of ₹50,000/- (Rupees fifty-thousand only) with one surety in the like amount, to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Panchkula.

(NARESH KUMAR SANGHI)
JUDGE

October 5, 2015
Pkapoor