

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

**CRM-M of 15923 of 2016
Date of Decision-15.09.2016**

Anup @ Nupy	... Petitioner
Versus	
State of Haryana	... Respondent

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

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

Mr. Arjun Singh Yadav, A.A.G, Haryana.

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

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of regular bail in case bearing FIR No. 514 dated 09.08.2014 registered under Sections 302/34/120-B IPC and under Sections 25/27 Arms Act at Police Station City Fatehabad, District Fatehabad.

[2]. The case was registered on the statement of complainant Bunty son of Ramesh Kumar Balmiki. Complainant gave eye-witness count to the effect that his brother Bharat went to purchase biscuits for his dog from a tea shop in the market on the fateful day. Four persons came on motorcycle. One of them fired, when the brother of the complainant was making payment. Bharat fell down and assailants fled way from the spot. The person who fired the shot was identified to be Subhash Nai. Others were identified to be Nupy Naik, Garonda Naik and Sonu Arora.

[3]. The Police investigated the case and found that all the assailants to be innocent. Instead Chander Sagar @ Garonda , Ravinder Kumar @ Poppy and Vinod @ Dholia were named as assailants. Satish @ Chikna, his father Rai Singh and Sheelu Gujjar were also found involved in the aforesaid occurrence. The reason behind the occurrence was stated to be a dispute which occurred between brother of the plaintiff i.e. Bharat and Satish @ Chikna in which Satish got a criminal complaint registered against Bharat. All the aforesaid three persons gave threats to Bharat.

[4]. The Police also found that the one Gulshan Kumar Jagga had given support to Vinod @ Dholia. Gulshan Kumar Jagga allegedly made some extra judicial confession before one Bikram Singh regarding hiring of Vinod @ Dholia for commission of this crime. The confession of Gulshan Kumar Jagga before the Police also disclosed culpability of Krishan, Sarwan, Teepu and Ajay Naik who hired services of Vinod @ Dholia. The prosecution built up a case that the deceased was got murdered by Gulshan Kumar after giving blood money to Vinod @ Dholia as he had apprehension that Bharat would kill or get him killed for his having accepted an amount of Rs.28 lakhs to compromise with one Gaurav Bhirdana (friend of Bharat) in a case under Section 307 I.P.C.

[5]. Application under Section 319 Cr.P.C was filed for summoning Subhash Nai, Sonu Arora, Satish @ Chikna, Rai Singh and Sheelu Gujjar as additional accused to face trial. The application against Rai Singh and Satish @ Chikna was not pressed. The application was dismissed by the trial Court qua Sheelu Gujjar. Subhash Nai and Sonu Arora were ordered to be summoned under Section 319 Cr.P.C.

[6]. Learned counsel for the petitioner submitted that the prosecution story is revolving around three cornered implication and is discrepant in the light of initial version which was found false by the Police thereby finding Subhash Nai, Nupy Naik and Sonu Arora to be innocent. Gulshan Kumar Jagga has rightly been granted benefit of regular bail by this Court on 26.05.2015 in CRM-M No.16772 of 2015.

[7]. This is the third bail application of the petitioner. Sonu Arora was granted benefit of anticipatory bail by this Court in CRM-M No.18535 of 2015 on 18.08.2015. Subhash Nai was granted benefit of regular bail by this Court on 21.04.2016 in CRM-M No.7784 of 2016 on the ground that once he was declared innocent and did not misuse the liberty while his co-accused were being tried.

[8]. It is true that regular bail of the petitioner was declined by this Court on 17.07.2015 along with co-accused Chander Sagar @ Garonda, but the bail has to be considered

on the basis of status of the trial as incarceration of accused for indefinite period would not be in consonance with settled principle.

[9]. In this petition, status was ordered to be submitted by the State Counsel vide order dated 01.06.2016. On 10.08.2016, it was found that the status report available with the State Counsel was not complete and accordingly, the case was adjourned for filing correct status report. In compliance of the said order, status report has been submitted by the Assistant Superintendent of Police, Fatehabad on 17.08.2016 disclosing that there are 11 accused involved in the case, out of which, 9 accused were arrested by the Police and 2 were summoned by the Court. Out of the total accused, 8 accused were granted bail. Petitioner Anup @ Nupy, Chander Sagar @ Garonda and Naveen @ Noni are in custody. There are total 52 witnesses as per list of prosecution and out of which, only 2 witnesses have been examined so far.

[10]. Learned counsel for the petitioner submitted that the petitioner is in custody for the last about 2 years and no further investigation is pending. Since, he was also found to be innocent along with Subhash, therefore, his case is also at par with alleged culpability of those co-accused who have since been granted benefit of regular bail.

[11]. Having considered the controversy in detail and without forming final opinion on the merits of this case, concession of regular bail can be granted to the petitioner in view of aforesaid facts and circumstances. The trial may take some time to conclude keeping in view the speed with which trial is progressing.

[12]. At this stage, without embarking upon the merits of the case, petitioner is ordered to be released on regular bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court.

[13]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

15.09.2016
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