

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

CRM No.M-16205 of 2016 (O&M)
Date of decision: 29.07.2016

Shehbaz Singh @ Shahu

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. K. S. Dadwal, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab
assisted by ASI Jugraj Singh.

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

Jitendra Chauhan, J. (Oral)

In this petition under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in case FIR No.34, dated 06.03.2014, registered under Sections 302, 482, 120-B and 148 of the Indian Penal Code (for short 'the IPC') read with Section 149 IPC and Sections 25 and 27 of Arms Act, at Police Station Model Town, Hoshiarpur.

The learned counsel for the petitioner contends that the petitioner is not named in the FIR. The evidence against the petitioner has come in the supplementary statement of Balbir Singh, wherein the petitioner has been stated to be in touch with the main accused. Thereafter, a confessional statement of the petitioner was recorded,

wherein, it has come on record that he took the mobile phone of his friend, Pawan Kumar and contacted the accused and passed on the information regarding the deceased being at home and thus, he was the part of the conspiracy. After the killing, the cell phone was returned to said Pawan.

The learned State counsel submits that the petitioner was keeping a watch over the movements of the deceased. As per the record, the petitioner is one of the conspirators.

Heard.

This is third petition for grant of bail filed by the petitioner. After dismissal of second petition for grant of bail on merits on 07.07.2015, no new circumstance has come up on record which would entitle him to be released on bail. The relevant para of the judgment of Hon'ble the Supreme Court passed in '**Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav**', 2005(2) SCC 42 reads as under:-

“17. The decision given by a superior forum, undoubtedly, is binding on the subordinate fora on the same issue even in bail matters unless of course, there is a material change in the fact situation calling for a different view being taken. Therefore, even though there is room for filing a subsequent bail application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the limited area in which an accused who has been denied bail earlier, can move a subsequent application. Therefore, we

are not in agreement with the argument of learned counsel for the accused that in view the guaranty conferred on a person under Article 21 of the Constitution of India, it is open to the aggrieved person to make successive bail applications even on a ground already rejected by courts earlier including the Apex Court of the country.”

In the instant case, the petitioner had earlier filed an application (CRM-M-38162-2014) for grant of bail which was withdrawn on 20.02.2015 and a subsequent application vide CRM-M-16297-2015 was dismissed on 07.07.2015. The said petition was dismissed on the ground that call details of petitioner's mobile phone indicated his involvement and the active role played by him in the commission of the offence. At present, no fresh ground has been referred by the learned counsel for grant of bail to the petitioner. Keeping in view the crucial role and specific allegations against him in the FIR, no case for bail is made out.

Dismissed.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

29.07.2016
ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No