

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

CRM No.M-34273 of 2015 (O&M)

Date of Decision: 12.01.2016

Rohtash

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Deepak K. Grewal, DAG, Haryana.

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TEJINDER SINGH DHINDSA.J.

Petitioner seeks the benefit of regular bail pending trial in case FIR No.182 dated 15.05.2015, under Sections 302/34/476/120-B IPC, registered at Police Station Sohna, District Gurgaon.

Counsel for the parties have been heard at length.

Deceased in the present case is Pawan Kumar. The date of occurrence is stated to be 15.05.2015. As per prosecution version, 4/5 young boys had arrived in a white colour alto car bearing Delhi registration No.6938. These four young boys are stated to have alighted from the car and had entered the shop. Having ascertained the name of the deceased as Pawan Kumar, he was shot at. Pawan Kumar, who was immediately removed to Vedanta Hospital Gurgaon and whereupon he has succumbed to his injuries.

As per statement of Virender i.e. brother of the deceased Pawan Kumar as also Vishal i.e. son of the deceased, name of the present petitioner had figured along with other co-accused.

Counsel appearing for the petitioner has during the course of arguments referred to an order dated 24.12.2015 passed by the learned Additional Sessions Judge, Gurgaon, whereby while allowing the

application seeking bail filed by Sanjay i.e. son of the present petitioner, it has been clearly noticed that both brother and son of the deceased, namely, Virender and Vishal have not supported the prosecution version.

Counsel further submits that it is a case of circumstantial evidence.

Prosecution has built up a case that it was a case of contractual killing. As per prosecution, the killing was executed at the hands of Surinder @ Sunda along with his associates. Motive attributed is that such contractual killer was engaged by Surinder @ Kalu on account of a land dispute between Ram Mehar i.e. elder brother of the present petitioner and deceased Pawan Kumar.

Even the disclosure statement of Surinder @ Kalu as also Surinder @ Sunda have been adverted to and which have been placed on record at Annexures P-2 and P-3 and a perusal thereof would reveal that no role whatsoever has been attributed to the present petitioner.

In view of the above, the issue as to whether the offence under Section 302 IPC is made out against the present petitioner would be a moot question.

The petitioner has been in custody since 23.05.2015. The trial is stated to be at the very initial stage inasmuch as out of 25 prosecution witnesses cited only 5 have been examined till date.

Without making any observations on the merits of the case, the petitioner is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to the satisfaction of trial Court/Duty Magistrate, Gurgaon.

Disposed of.

12.01.2016

(TEJINDER SINGH DHINDSA)
JUDGE