

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-13322 of 2016 (O&M)

Date of Decision : 06.02.2016

Suraj

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Y.S. Tyagi, Advocate
with Mr. Manish Soni, Advocate
for the petitioner.

Ms. Neelam Kashyap, DAG, Haryana.

Mr. Deepender Singh, Advocate
for the complainant.

Surinder Gupta, J.

Petitioner is facing trial in case bearing FIR No. 770 dated 20.09.2015, for offences punishable under Sections 302, 201 read with Section 34 and 120-B of Indian Penal Code (for short 'IPC') and 25 of the Arms Act, registered at Police Station Civil Lines Gurgaon, District Gurgaon.

As per case of prosecution, assailants came in Swift Car and killed Mohit by firing shot at him. Allegation against the petitioner is that he was driver of that Swift Car.

Learned counsel for the petitioner has argued that petitioner is not named in FIR. Prosecution has examined one of the witness Ashu, who has also not identified the petitioner in Court. Incident took place on 19.09.2015 and the petitioner was arrested on 24.10.2015 but no recovery was effected from him.

Learned State counsel and learned counsel for the complainant

have argued that besides eye-witness account, there is other evidence against the petitioner, which include his mobile location at the place of occurrence. Mohit had left his house one hour before the attack on him and during this period, the petitioner had 35 calls on the mobile of Sachin who alongwith Raju came on motorcycle and were following Mohit. Immediately after the occurrence, the petitioner called Dharambir, the main accused, in order to apprise him about execution of plan to murder Mohit. Even if Ashu one of the prosecution witness has not identified the petitioner, statement of other witness, namely, Anoop is yet to be recorded. Release of the petitioner at this stage will allow the accused to prevail upon that prosecution witnesses.

The trial is still in progress. Statement of Anoop, the other witness who has named the petitioner, is yet to be recorded. Allegation against the petitioner is that he was driver of the Swift Car in which assailants came and murdered Mohit. Release of the petitioner on bail at this stage will certainly effect the prosecution case and at the same time allow opportunity to accused to prevail upon material witnesses.

Keeping in view the gravity of charge against petitioner, I find no merit in this application at this stage and the same is dismissed.

February 06, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No