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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-21561-2017 [O&M]

Date of Decision:- September 20, 2017

Talib	Versus	Petitioner
State of Haryana		Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Afzal Hussain, Advocate,
for the petitioner .

Ms. Neelam Kashyap, DAG, Haryana.

Mr. Amit Jain, Advocate,
for the complainant.

SHEKHER DHAWAN, J.

Present petition has been brought by petitioner, Talib under Section 439 Cr. P.C. for grant of regular bail in a case registered by way of FIR No.471 dated 03.09.2015 (Annexue P/1) at Police Station Punhana, District Mewat for an offence punishable under Sections 148, 149, 323, 452, 307 and 302 of Indian Penal Code and Section 25 of the Arms Act.

2. The alleged occurrence had taken place on 2.9.2015 and as per the complainant, Nijar Khan, the dispute was between present petitioner, Talib-Sarpanch and his opponent – Usman, Ex-Sarpanch at the time of finalization of preparation of Voter List in respect of elections of Gram Panchayat Village Jadoli. The allegations against the petitioner are that he had fired shots from country-made pistol resulting into the death of Imtiaz son of the complainant, Nijar and the incident had also resulted into

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the death of Manisha d/o late Aslam.

3. Learned counsel for the petitioner contended that the petitioner has been falsely implicated in this case because of conspiracy as the petitioner and his family members were not in favour to contest the election and pressurizing Mohammed Talib to withdraw from the campaign of the election. The petitioner was victim of the conspiracy in collusion with some political leaders to stop the son of the petitioner to be elected as Sarpanch. The dispute had arisen on 1.9.2015 and the fight took place amongst the supporters of the petitioner and the supporters of Ushman Khan in the village despite the advice of the petitioner and the fact that Ushman Khan was adamant to take revenge from the supporters of the petitioner conspired to kill 18 years old boy and 5-6 years old minor girl and falsely implicated the entire family of the petitioner.

4. Learned counsel for the petitioner also contended that on the basis of polygraphy test as well, the benefit of doubt is to be given to the present petitioner. He further contended that the co-accused have been released in this case vide orders dated 22.12.2015 passed by this Court in CRM-M-41534-2015. The petitioner is in custody since 1.5.2017 and decision of the case still to take some more time. So, the petitioner be released on bail.

5. Learned State counsel while opposing the bail plea, contended that the petitioner is specifically named in the FIR and the allegations against him, as per the complainant, are that the bullet fired by Talib hit the son of the complainant, namely, Imtiaz. Manisha, aged about 6-7 years was also injured during the occurrence and she died later on.

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6. Learned State counsel further contended that the present petitioner is the main accused and recovery of weapon, which was used for commission of offence, was also effected from the possession of the petitioner. Earlier, the petitioner was declared Proclaimed Offender. As such, the petitioner is not entitled to seek parity with co-accused. He has further submitted that even if polygraph test is considered, the same does not absolve the petitioner, rather, implicate him.

7. Having considered the submissions made by learned counsel for the parties and the facts that the petitioner is named in the FIR and there are specific allegations regarding murder of Imtiaz by bullet injury and in the present incident, two persons, namely Imtiaz and Manisha having been murdered. The alleged recovery of country-made pistol, which was used for commission of offence, was effected from the present petitioner. The role attributed to the present petitioner is certainly distinguishable from the co-accused, who were released on bail by this Court vide orders dated dated 22.12.2015 passed by this Court in CRM-M-41534-2015. No case is made out to release the petitioner on regular bail.

8. In view of the above, there is no merit in the present petition and the present petition stands dismissed.

September 20, 2017
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(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned
Reportable

Yes
Yes