

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-34150 of 2017

Date of Decision: October 24, 2017

Shiv Lal @ Sholly

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present: Mr. Vinod Ghai, Sr. Advocate with
Mr. J.S. Mehendiratta, Advocate for the petitioner.

Ms. Manjari Nehru Kaul, Addl.A.G., Punjab.

Mr. S.P.S. Tinna, Advocate for the complainant.

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M.M.S. BEDI, J.

Vide order dated October 5, 2016, the first petition under Section 439 Cr.P.C. for grant of regular bail during the pendency of the trial filed by the petitioner was dismissed. Aggrieved by the dismissal of the bail petition, the petitioner had filed SLP (Crl.) No. 8076 of 2016 which was dismissed on July 11, 2017 at a stage when 45 witnesses out of 88 witnesses stood examined. In view of the said changed circumstances, it was directed that the petitioner would file fresh application for bail before the trial Court which would be considered without being influenced by the earlier order passed by this Court, after considering the submission of the parties.

The application filed by the petitioner before the trial Court has again been dismissed vide order dated August 17, 2017.

The petitioner is an accused of criminal conspiracy of murder of Bhim Tank along with other accused who was allegedly earlier an employee of the petitioner but later on severed the work relationship for which the petitioner had allegedly grievance against him.

The story of the prosecution is that on December 11, 2015 the petitioner had hatched a conspiracy with his nephew Amit Doda and made a phone call to deceased Bhim Tank on the pretext that the disputes would be compromised. The deceased along with Gurjant Singh @ Jainta went to the farm house of the petitioner where hands, wrists and both the feet of Bhim Tank were chopped off by the members of unlawful assembly pursuant to the lalkara by Harpreet Singh in the farm house of the petitioner. On the intervention of Gurjant Singh, his hand was also chopped off. On arrival of Jaspal Singh @ Bhola in the farm house, an alarm was raised by Bhim Tank and Gurjant when all the members of unlawful assembly ran away from the spot.

The trial Court while dismissing the application for bail has observed as follows:-

“8. This case was registered on the statement of Ranjit Singh. This statement has been signed by Ajay Kumar son of Raj Kumar being joint complainant. In this case, there are two set of witnesses, one set belongs to injured i.e. Gurjant Singh @ Janta's family and the other set is related to Bhim Taank deceased's family. No doubt, the witnesses belong to Gurjant Singh @ Jainta injured's

family i.e. Gurjant Singh himself, Ranjit Singh complainant (brother of injured Gurjant Singh) and his maternal uncle Jaspal Singh have resiled from their statements so far as accused Shiv Lal Doda and Amit Doda are concerned, but the other witnesses belong to Bhim Taank deceased's family i.e. Kaushalaya Devi PW-15, Sunil Kumar PW-16 and Ajay Kumar PW-21 have supported the case of the prosecution as far as the allegations of criminal conspiracy against accused Shiv Lal Doda are concerned. Even one of the material witness namely Akash son of Rajinder Kumar is yet to be examined. The main accused of this case had chopped off one hand of Gurjant Singh and also chopped off both hands and both feet of Bhim Taank with the result he had died on the way to Hospital. Allegations against the applicant/accused are serious in nature and he has been charge sheeted for the commission of offences 302/ 307/ 326/323/201/115/120- B/148/149 IPC and section 3(2) SC/ST Act out of which offence under section 302 IPC is a heinous crime. Therefore, keeping in view the aforesaid facts & circumstances of the case, particularly gravity of offence and seriousness of the allegations against applicant, this court does not find it a fit case to grant concession of bail to the applicant/accused. Hence, the present application for releasing the applicant on bail is dismissed without having prejudice to the applicant/accused on merits of the case. However, it is made clear that in view of the orders of Hon'ble High Court by which the trial of this case has been made time bound, all out efforts will be made to conclude the trial as directed by the Hon'ble High Court, by giving short adjournments. Papers of the bail application be tagged with the main challan file pending in this Court.”

Mr. Vipin Ghai, Senior Advocate appearing on behalf of the petitioner has submitted that the material witnesses regarding conspiracy have already been examined as PW 15 Kaushalya Devi, PW16 Sunil Kumar and PW21 Ajay Kumar. So far as Akash, a witness to the criminal conspiracy is concerned, he has not been permitted by the High Court to be examined as a witness as he was permitted by the trial Court to be examined as an additional witness under Section 311 Cr.P.C.

Counsel for the State Ms. Manjari Nehru Kaul has contended that the Hon'ble High Court has already passed an order to conclude the trial expeditiously by giving short dates of adjournments and that the proceedings are being taken by the trial Court on day to-day basis. She urged that as all the prosecution witnesses stand examined except for one or two witnesses, no ground is made out to grant the concession of bail to the petitioner during the pendency of the trial.

I have heard counsel for the petitioner and gone through the statements of PW15 Kaushalya Devi, PW16 Sunil Kumar and PW21 Ajay Kumar who are the witnesses to establish the conspiracy of the petitioner and the entire episode having been the result of the conspiracy of the petitioner. As all the material witnesses pertaining to the conspiracy of the petitioner have already been examined, it will not be appropriate for this Court to appreciate the testimony of the prosecution witnesses in order to determine the prima facie culpability in context to the relevant provisions of the Evidence Act to find out the relevancy and admissibility of the evidence of conspiracy lest it should prejudice the prosecution agency or the petitioner, as the trial is ripe for final adjudication. Scrutiny and

appreciation of evidence for determining the culpability of the petitioner at this penultimate stage may affect the final adjudication as the trial is being undertaken on day to-day basis under the directions of the High Court.

In view of the above, the second petition for bail is dismissed as I do not find any changed ground to grant the concession of bail to the petitioner.

October 24, 2017
sanjay

(M.M.S. BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.