

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-1439-2018 (O&M)

Date of Decision: 15.02.2018

Kuldeep

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. D.S. Randhawa, Advocate for the petitioner.

Mr. Amrik Narwal, D.A.G., Haryana.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioner seeks the benefit of regular bail in case F.I.R. No.881 dated 6.12.2015 under sections 302, 307, 285, 34 I.P.C and sections 25, 54, 59 of Arms Act, registered at Police Station, City Ballabhgarh, District Faridabad.

Learned counsel for the parties have been heard.

FIR came to be registered on the statement of Hemraj in relation to an occurrence that took place on 5.12.2015 and in which brother of the complainant namely Giri Raj lost his life.

As per prosecution version, deceased along with Sarjeet, Dalbir, Raj Kumar @ Ajju, Suresh and Raj Kumar son of Satbir had joined a marriage party/*Barat*. During the late night hours an altercation is stated to have taken place while dancing on certain D.J songs with the companions of brother of one Goli Sarpanch of village Chaprol, District Palwal. In the firing that was resorted to, Giri Raj received fire arm injuries in his chest and Raj Kumar @ Ajju a fire arm injury on the left leg. Giri Raj is stated to have succumbed to such firm arm injuries.

Date of arrest of the petitioner is 12.12.2015.

During the course of arguments, learned counsel has adverted to the testimony of material witness who were also eye witness to the occurrence namely Sarjit, Dalbir, Suresh and Raj Kumar son of Satbir and who have not supported the prosecution version. To the same lines is the testimony of Raj Kumar @ Aju, who had also not supported the prosecution version.

Reliance has been placed upon a judgement of Hon'ble Supreme Court in *Brijesh Mavi Vs. N.C.T of Delhi, 2012(3), R.C.R (Criminal), 681* to contend that even if there has been a recovery of the weapon of offence (country made pistol) after more than a year from the date of occurrence, such incriminating evidence would in itself not be sufficient to entail conviction.

All the material witnesses have already been examined before the Trial Court.

It is not the case made out on behalf of the State that if benefit of bail is granted to the petitioner, he would be in a position to hamper and influence the course of a free and fair trial.

Without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate concerned.

However, it is clarified that the observations made by this Court are confined only as regards examining the prayer of petitioner for grant of bail and would have no bearing on the merits of the case.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

15.02.2018

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No