

CRM-M-18863-2017

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18863-2017

Date of Decision: 02nd February, 2018

Dinesh

...Petitioner

Versus

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Prabjeet Singh Sullar, Advocate
for the petitioner.

Mr. Sharad K. Yadav, DAG, Haryana.

Mr. Anshuman Dalal, Advocate
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.67 dated 28.04.2016, registered at Police Station Lakhana Majra, District Rohtak, under Sections 302, 449 and 120-B of the Indian Penal Code, Section 25/30/54/59 of the Arms Act and Section 66-A of I.T. Act.

It is the contention of the learned counsel for the petitioner that the petitioner although has been named in the FIR but except for the *lalkara*, no overt act has been attributed to him. He contends that the petitioner was arrested in this case on 02.05.2016 and since then, he is in custody. There are 33 prosecution witnesses to be examined and out of

them, only 4 witnesses have been examined till date. He submits that the trial is not likely to conclude soon and since the petitioner has only been attributed a *lalkara*, he may be granted the concession of regular bail.

Counsel for the State, on the other hand, submits that the petitioner has specifically been named in the FIR. He, however, could not dispute the fact that except for the *lalkara*, nothing more is attributed to him in the FIR but his submission is that the petitioner had enmity with the complainant and he had threatened him earlier also.

Counsel for the complainant further adds that the threatening call, which was made by the petitioner to the complainant is dated 17.01.2016, which has been recorded and that threat was intended to be given effect to when the incident took place resulting in the death of the brother of the complainant. His assertion is that the petitioner is a person who had actually used the juveniles of his family for the commission of the murder and achieved the purpose for which he had proceeded to elimination of the elder brother of the complainant. He, therefore, prays that the petitioner be not granted the concession of regular bail as prayed for.

I have considered the submissions made by the counsel for the parties.

The factum that in the FIR, there is only a *lalkara* which is attributed to him although specifically, he has been named to be present on the site. It is also a case where fire arms were used but it has not come in investigation that the petitioner was having any fire arm with him or has used the same in any manner. No recovery has been effected from the

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petitioner. As regards the assertion of the counsel for the complainant and the State that there was a threatening call given by the petitioner to the complainant on 17.01.2016, the authenticity thereof is under consideration before this Court in CRM-M-47540-2017, titled as 'Krishan Lal Chhabra Vs. State of Haryana & another'. That apart, as regards the allegation of the petitioner having instigated the juveniles for commission of the offence is again a question which is subject to the evidence to be led by the prosecution. Out of the total 33 witnesses cited, only 4 have been examined till date.

Keeping these circumstances in sight, the possibility of the trial concluding at an early date does not appear to be possible. Petitioner being in custody for more than 1 year and 6 months and with no overt act attributed to him in the commission of offence, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

02nd February, 2018
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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