

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24370-2017 (O&M)

Date of Decision: 10.08.2018

Gurpreet @ Bhaji

...Petitioner

vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Bipan Ghai, Sr. Advocate with
Mr. Deepanshu Mehta, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN,J

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 273 dated 14.11.2016, under Sections 148/149/302/34 IPC (later on, Sections 341 and 120-B IPC were also added) and Section 25/54/59 of the Arms Act, registered at Police Station Hassanpur, District Palwal, Haryana.

Learned senior counsel for the petitioner submits that vide order dated 28.08.2017, the petitioner was granted interim bail, till receipt of the report of FSL with regard to the firearm injury. The order is reproduced as under:-

“This is a petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.273 dated 14.11.2016 registered under Sections 148, 149, 302, 34 IPC and Section 25/54/59 of Arms Act (later Section 341 and 120-B IPC also added) at Police Station Hassanpur, District Palwal, Haryana.

Learned counsel for the petitioner submits that vide

order dated 16.08.2017 passed by this Court in CRM-M-28374-2017, the co-accused namely, Sandeep son of Radhe Krishan has already been granted concession of bail. The operative part of the said order reads as under:-

“Learned counsel for the petitioner submits that as per FIR dated 14.11.2016, complainant- Inder Mohan who is the real brother of deceased Budhvir has stated that Bintu son of Ram Parkash came with a rifle in his hands and fired shot which hit the deceased Budhvir on his chest. He further submits that Sachin son of Jasbir, Sonu son of Sant Raj Bilochpur, Kuldeep Sardar and his son Bhajji, Babbar Singh Sardar are also named in the FIR.

It is further submitted by learned counsel for the petitioner that on seeing these persons, complainant and others rescued themselves by hiding. He further submits that during the investigation three persons namely Sachin son of Jasbir, Sonu son of Sant Raj Bilochpur and Kuldeep Sardar were found innocent and challan under Section 173 Cr. P.C. was submitted against these persons on 20.2.2017 including the present petitioner-Sandeep.

Learned counsel for the petitioner further submits that when coaccused namely Gurpreet @ Bhajji son of Kuldeep Sardar was arrested on his disclosure statement that petitioner was involved in this case with the allegation that petitioner was also occupant of the car at the time of commission of the crime. He further submits that no recovery was effected from the petitioner and a country made weapon was received from the co-accused namely Sandeep son of Prithavi.

It is further submitted by learned counsel for the petitioner that coaccused/Sukhvinder @ Sukha has already been granted concession of bail by the Additional Sessions Judge, Palwal vide order dated 26.5.2017.

Learned State counsel, on instructions from SI Brahm Pal, submits that subsequent to submission of challan, on the basis of report of DSP, Palwal dated 19.5.2017, even the co-accused/Bintu has been declared innocent.

In view of above submissions made by learned counsel for the petitioner and in view of the fact that conclusion of the trial will take long time, present petition is allowed. Petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Illaqa Magistrate.”

It is further submitted that as per the allegations in the FIR, no injury is attributed to the petitioner. Deceased-Budhvir suffered only one fire injury as is clear from the post mortem report and he died on account of that injury. It is also submitted that it has not come in the investigation that the single barrel gun allegedly recovered from the petitioner was used in the commission of crime.

On the other hand, learned State counsel on instructions from Brahm Pal, SI submits that FSL report with regard to the firearm injury on the body of deceased is

still pending. It is yet to be ascertained from which firearm, the same was inflicted.

In view of the aforesaid submission made by learned counsel for the petitioner, petitioner is directed to be released on interim bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Illaq Magistrate till the FSL report is received by the prosecution.

List on 18.12.2017.

However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found misusing the concession of bail.”

The petitioner, thereafter, surrendered before the trial Court on 20.03.2018.

Learned senior counsel further submits that as per the version given in the FIR, on 14.11.2016, Budhvir son of Dharampal, who is the real brother of complainant-Inder Mohan, was shot dead by one Bintu with a rifle which hit on his chest. Later on, during investigation, complainant improved his version and named other persons including the petitioner. Learned Senior counsel further submits that all other accused persons, except the petitioner and one Sandeep son of Prithivi, have been granted concession of regular bail. It is further submitted that the petitioner was on interim bail for about 06 months and has not misused the concession of bail. It is also submitted that conclusion of the prosecution evidence will take long time as some of the prosecution witnesses including complainant-Inder Mohan are now confined in District Jail Neemka as subsequently he is involved in FIR registered under section 302 IPC.

Learned senior counsel further referred to the order dated 03.08.2018 passed by the trial Court, vide which, noticing the report submitted by the police on summons of the prosecution witnesses, the

aforesaid fact has come to the notice of the trial Court and the case is further adjourned for evidence.

Learned State counsel, on instructions from SI Durga Parsad, submits that out of 27 prosecution witnesses, 05 have already been examined and has not disputed that the complainant is presently lodged in District Jail Neemka and the petitioner has undergone judicial custody of about one year excluding the period when he remained on interim bail.

Without commenting anything upon the merits of the case, considering the fact that the petitioner was granted interim bail and has not misused the same; conclusion of the trial will take long time as 22 prosecution witnesses are yet to be examined and also in view of the fact that the complainant has changed his version given in the FIR exonerating Bintu who was named as main accused who fired fatal shot and also in view of the fact that the petitioner is not involved in any other case, the petitioner is directed to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate.

Disposed of.

10.08.2018
smriti

(ARVIND SINGH SANGWAN)
JUDGE

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