

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-2566-2018 (O&M)

Date of Decision: 07.05.2018

Bhoop Singh

...Petitioner.

V/S

State of Haryana

..Respondent.

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Himmant Singh, DAG, Haryana.

ARVIND SINGH SANGWAN,J. (Oral):

CRM-16203-2018

Prayer in this application is for placing on record Annexures P3 to P5.

Application is allowed. Annexures P3 to P5 are taken on record.

CRM-M-2566-2018

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 671 dated 26.11.2012 under Sections 302, 120-B and 34 IPC registered at Police Station Assandh, Karnal (Annexure P1).

Counsel for the petitioner submits that the petitioner is in judicial custody since 10.09.2016 and out of 27 prosecution witnesses, only 04 witnesses have been examined including the complainant.

Counsel for the petitioner further submits that 04 of the co-accused, namely, Dalip, Vijay, Mann Singh and Sultan Singh faced the trial and were convicted vide judgment dated 28.07.2014 and sentenced to undergo imprisonment for life alongwith fine of Rs.15,000/- each. Counsel for the petitioner further submits that initially the FIR was registered under Sections 279 and 304-A IPC with the allegations that Canter No. HR37-B-5513, owned and driven by co-accused Vijay has caused the accident resulting in death of two

persons. Thereafter, during investigation, Section 304-A was deleted and Section 302, read with Section 120-B IPC was added.

Counsel for the petitioner further submits that petitioner Bhoop Singha alongwith one co-accused Ramesh were not arrested and, therefore, the said trial was concluded vide judgment dated 28.07.2017 (Annexure P3). Counsel for the petitioner has submitted that a finding has been recorded in para 46 of the judgment that the accused Dalip, Sultan and Man Singh were keeping grudge against the complainant party, due to the murder of their brother Jai Singh and in conspiracy with each other, all the four accused have committed the offence.

Counsel for the petitioner further submits that the statements of Maha Singh were recorded in both the trials (copies of which are annexed as Annexure P4 and P5), in the earlier statement (Annexure P4), he has stated that all the four accused, who were present in the Court, in conspiracy with each other, killed his brothers by causing accident.

Counsel for the petitioner further submits that in the first version given by the complainant, the petitioner was not named and he was named in the second statement made to the police.

Counsel for the petitioner further relied upon the statement of PW4- Maha Singh, which has been recorded in the present case which reads as under

“ On 29.11.12, I had made the statement that the driver and owner of canter no. “Hr37B-5513 is Vijay who is real Bhanja of Sultan. Dalip, Man Singh, Bhoop Singh son of Jai Singh with whom litigation was pending an in one of the case we brothers were convicted. Due to this enmity, Bhoop Singh son of Jai Singh, Sultan, Mansingh, Dalip Singh sons of Nagina, Vijay Singh and Ramesh sons of Chatter Singh in conspiracy with each other killed my brothers by accident. Accused Bhoop Singh and Ramesh are present in the Court,”

It is thus submitted that in the statement, complainant Maha Singh deposed that petitioner Bhoop Singh alongwith Ramesh, in conspiracy with other four persons, have killed his brother by accident.

Learned State counsel, on instructions from ASI Parveen Kumar, has not disputed the factual position, however, opposed the prayer of the bail on the ground that since the petitioner was not arrested at the first instance, the trial of the petitioner-Bhoop Singh could not be completed and since the co-accused have been convicted, the petitioner is not entitled to concession of regular bail.

In reply, counsel for the petitioner submits that out of 04 accused persons, who were convicted, vide judgment dated 28.07.2014 (Annexure P3), in the appeal filed by them, Sultan Singh, Maha Singh and Dalip have been granted the concession of suspension of sentence by this Court and this fact is not disputed by the learned State counsel.

Without commenting anything upon the merits of the case, considering the fact that the petitioner is in judicial custody since 10.09.2016; only 04 prosecution witnesses have been examined; there is a variation in the statement of Maha Singh in the earlier trial as well as in the present trial; the sentence of 03 of the co-accused who were convicted vide judgment dated 28.07.2014 (Annexure P3) is suspended by this Court, the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate.

(ARVIND SINGH SANGWAN)
JUDGE

07.05.2018
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Whether speaking/reasoned : Yes/No.
Whether Reportable : Yes/No