

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

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**CRM-M-33464-2018 (O&M)
Date of Decision : 30.08.2018**

Pardeep Nirala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE P.B.BAJANTHRI

Present: Mr. Yatish Kumar Goel, Advocate with
Mr. S.K.Agnihotri, Advocate for the petitioner.
Mr. R.K.Doon, AAG, Haryana.
Mr. Abhimanyu Singh, Advocate for the complainant.

P.B. BAJANTHRI, J.(ORAL)

In the instant petition, petitioner has sought for regular bail under the provision of Section 439 Cr.P.C. in case FIR No.119 dated 13.03.2018, under Sections 302, 307, 34, 120-B IPC and 25/54/59 of Arms Act registered at Police Station Badshahpur, District Gurugram.

2. Learned counsel for the petitioner submitted that name of the petitioner is not reflected in the FIR. Later on complainant has informed the police that petitioner is conspirator in respect of alleged incident took place on 13.03.2018 the day when complainant's brother Anand Sharma was killed by Tillu and others while injuring Karishma Sharma, wife of Anand Sharma. Learned counsel for the petitioner further submitted that police have illegally picked up the petitioner and detained in custody on 13.03.2018 without arresting rest of the petitioners. Actual arrest has been

shown on 15.03.2018 and produced the petitioner before the Magistrate on 16.03.2018. Thereafter, police have moved an application for police custody and it was declined and ordered for judicial custody. Thereafter, respondent prepared a revision and it was withdrawn on 31.03.2018 stating that petitioner's presence is not required for the purpose of interrogation. Thus, learned counsel for the petitioner submitted that petitioner's presence was not required for interrogation at the relevant point of time and his name is not reflected in the FIR.

3. Per contra, learned State counsel while resisting leaned counsel for the petitioner's contention submitted that in view of the statement of Krishma Sharma vide Annexure R1 alongwith reply statement, it is evident that she has specifically pointed out petitioner's involvement in the alleged incident of killing her husband on 13.03.2018. It was also pointed out that petitioner was threatening the deceased-Anand Sharma in respect of another FIR namely FIR No.75 of 2018 under Section 307 IPC, registered at Police Station Badshahpur. This was stated to have been informed to the police. Therefore, petitioner is not entitled for regular bail.

4. Heard the learned counsel for the parties.

5. Perusal of the records it is evident that petitioner's name is not reflected in FIR and it has been cropped up during the investigation. Petitioner has been implicated only based on the statement given by the complainant- Kamal Sharma and Karishma Sharma-injured witness. Perusal of Annexure R-1, statement of Karishma Sharma it seems it is an after thought having regard to the allegations made against the petitioner to the extent that petitioner was insisting for compromise in case of firing upon young man about 15/20 days ago. If there is threat by the petitioner to the

deceased-Anand Sharma about 15/20 days back from the date of alleged incident they could have approached police stating that there is pressure from the petitioner in respect of FIR No.75 of 2018 under Section 307 IPC, registered at Police Station Badshahpur. It is also to be noted that petitioner has no concern with the FIR No.75 of 2018 under Section 307 IPC, registered at Police Station Badshahpur as he is not named in the FIR. Thus, statement of Karishma Sharma-Annexure R1 is only an after thought. That apart it is not specific allegation that on a particular date petitioner had threatened the deceased-Anand Sharma and Karishma Sharma.

6. In view of the submissions of learned counsel for the petitioners and disposal of the trial will take sufficient time, I deem it appropriate to grant the concession of regular bail to the petitioner.

7. Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. Petitioner-Pardeep Nirala is ordered to be released on regular bail on his furnishing bonds to the satisfaction of trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

8. However, the petitioner shall not in any way indulge in any criminal activities and he shall also not influence the witnesses or otherwise interfere with the fair trial.

9. Petition stands allowed.

30.08.2018

pooja saini

(P.B.BAJANTHRI)
JUDGE

Whether speaking/reasoned?

Yes/ No

Whether reportable?

Yes / No

