

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

CRM-M-42200-2017

Date of decision:-22.2.2018

Anuj

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ajay Ghangas, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Anuj – an accused in FIR No.325 dated 13.7.2017, under Sections 387, 307, 379, 420, 120-B IPC and Section 25 of Arms Act, registered with Police Station City Gohana, District Sonapat.

Briefly stated, the facts of the case as per prosecution story are that on 13.7.2017 at about 8:30 a.m., two boys riding a motorcycle without number plate went to the shop of Hansraj Gupta being run under the name and style of M/s Lala Matu Ram Rajender Prasad situated in Old Grain Market; that they purchased half kg sweets and while making payment of the same, they took out a paper from pocket upon which it

was written that pay Rs.50 lakhs and while going away on the motorcycle, a shot was fired in the air. On the basis of statement of complainant – Hansraj Gupta, formal FIR was registered. The matter was investigated and accused were arrested. The petitioner had filed an application for regular bail in the Court of Sessions, which was declined by Additional Sessions Judge, Sonapat vide order dated 27.10.2017, as such, he has approached this Court with the same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has argued that petitioner is not named in the FIR; that his name had cropped up in the disclosure statement of a co-accused, which is inadmissible in evidence; that the co-accused has already been granted bail, therefore, he be also given the same concession.

Whereas learned State counsel has opposed the request contending that the petitioner was part of the conspiracy and recovery of country made pistol with four live cartridges and motorcycle having registration number of a Scooter HR-10C-5248 used in the commission of the offence had been effected from him. The petitioner is stated to have met with accused Sandeep in District Jail on 14.5.2017, 17.5.2017, 20.5.2017 and 24.5.2017.

After hearing the rival contentions, I find that though the petitioner is not specifically named in the FIR and his name had cropped

up during investigation of the case in disclosure statement of co-accused but then statement of such co-accused can definitely be looked into to provide lead in the investigation. Section 30 of the Indian Evidence Act provides that when more person than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession. The very fact that recovery of country made pistol and four live cartridges was effected from him goes to show his criminal background. Furthermore, the motorcycle said to have been used in the incident bearing No.HR10C-5248, which is a fake number, actually of a scooter also goes to prove his criminal bent of mind. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood of his absconding and even tampering with the prosecution evidence cannot be brushed aside lightly.

Therefore, finding no merit in the petition, the same stands dismissed.

22.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No