

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

CRM-M No. 33155 of 2018 (O&M)

Date of decision : 08.04.2019

Deepak alias Ford

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Vikas Lochab, Advocate for the petitioner.

Mr. Arun Beniwal, DAG, Haryana.

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DAYA CHAUDHARY, J. (Oral)

CRM No.8682 of 2019

This application is for placing on record copy of statements of PW-2 and PW-4.

Application is allowed and statements of PW-2 and PW-4 annexed with the application are taken on record.

CRM-M No. 33155 of 2018

Petitioner Deepak alias Ford has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.163 dated 13.05.2016 under Sections 302/120-B/212/34 of the Indian Penal Code, 1860 (for short - 'IPC') and Section 25/54/59 of the Arms Act, registered at Police Station – Sadar Sonipat, Distt. Sonipat, during pendency of the trial.

Learned counsel for the petitioner submits that as per the allegations in the FIR, the petitioner was driving the car and he struck the same

from the backside of the motorcycle of Jagbir and Anil (since deceased). He was having a country-made pistol of .315 bore at that time. He fired shots upon Jagbir and Anil. It is also mentioned that PW-4 Ranbir had deposed that he was present in the ambulance along with Anand and asked about the incident from his nephew Anil, who narrated the entire incident stating that accused Ajay alias Kannu, Nittu alias Pappu, Saddam alias Kishamat, Joginder alias Ram Saroop and other co-accused fired shot upon them. Learned counsel further submits that petitioner was not named in the FIR and he has been implicated at the instance of the complainant on the basis of his supplementary statement. No injury caused either to Jagbir or to Anil has been attributed to him and no test identification parade was conducted during investigation. Learned counsel also submits that the petitioner has been implicated in the case only on the basis of disclosure statement made by co-accused, which was recorded later on and the same is not admissible in evidence view of provisions of Section 27 of the Indian Evidence Act. Learned counsel further submits that two co-accused of the petitioner namely Krishan Kumar and Raj Singh have been released on regular bail vide orders dated 19.04.2017 and 26.02.2018 passed in CRM-M No.11932 of 2017 and CRM-M No.6695 of 2018, respectively. Learned counsel also submits that alleged recovery of country-made pistol has falsely been planted upon the petitioner, whereas no such occurrence had ever taken place. Challan has been presented in the Court and after framing of charges, statements of material prosecution witnesses have been recorded. At the end, learned counsel for the petitioner submits that no independent witnesses was joined and the persons whose statements have been recorded, are interested witnesses.

Learned State counsel has not disputed the custody period, stage of the trial and also release of two co-accused on regular bail. However, he has opposed the bail on the ground that it is a double murder case and the offence was committed by the accused persons in furtherance of their common intention. He further submits that the petitioner is the habitual offender and two more cases are pending against him. The eye witnesses of the case have supported the case of the prosecution. He also submits that the petitioner may abscond or threaten the material prosecution witnesses, who are still to be examined.

Heard arguments of learned counsel for the parties and have also perused the contents of the FIR and other documents on the file including the bail orders passed in case of two co-accused as well as statements of PW-2 Davender and PW-4 Ranbir, which have been placed on record.

Undisputedly, in the present case two persons *i.e.* father and son have been killed and as such it is a double murder case. Allegations levelled are there of Section 120-B IPC. As per statement of the complainant, the petitioner was having country-made pistol of .315 bore and had fired shots upon Jagbir and Anil (since deceased). PW-2 Devender had identified the accused-petitioner in the Court, except Ajay *alias* Kannu (who had expired being encountered). Similarly, PW-4 Ranbir has also stated in his statement in the Court that when he was present in the ambulance along with Anand, he asked about the incident from his nephew Anil, who narrated the entire incident to him and had specifically stated that co-accused Ajay *alias* Kannu, Nittu *alias* Pappu, Saddam *alias* Kishamat, Joginder *alias* Ram Saroop and other accused fired shots. It has also been brought to the notice of this Court

that the present petitioner is habitual offender and involved in two other heinous offences *i.e.* FIR No.154 dated 09.05.2016 under Section 25 of Arms Act and Section 302, 307, 34 IPC registered at Police Station Sadar Sonipat and FIR No.72 dated 02.06.2016 under Section 186, 332, 353, 307 IPC and Arms Act registered at Police Station Talvandi, Bhatinda (Punjab). On perusal of statements of PW-2 Davender and PW-4 Ranbir, it cannot be said that the petitioner was not present at the place of occurrence or was having no role. Simply it has been mentioned that the prosecution witnesses did not recognise the person who fired shot.

Accordingly, keeping in view the nature of the offence as well as allegations of Section 120-B IPC, the period of incarceration of the petitioner and his past conduct, no ground is made out to release the petitioner on regular bail and as such the present petition being devoid of any merit is hereby dismissed.

08.04.2019

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No