

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-34901-2019 (O&M)

Date of decision: 29.08.2019

Deepak Yadav

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Manish Soni, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Prayer in the present petition is for cancellation of regular bail granted to respondent No.2-Gurpreet Singh who is an accused in FIR No.174 dated 01.05.2019 registered under Sections 306, 34 of the Indian Penal Code and Section 25 of the Arms Act, 1959, at Police Station Sector-40, District Gurugram.

No doubt, the counsel appearing for the petitioner has made sincere efforts by searching various judgments of the Hon'ble Supreme Court and a Full Bench judgment of Kerala High Court to strive home the point that the subsequent bail application is required to be heard by the same Presiding Officer, however, in the present case, the aforesaid judgments are not applicable. The judgments cited above by learned counsel for the petitioner are as under:-

“1. Firoos Ali Vs. State of Kerala, 2016(4) ILR (Kerala) 73.

2. Virupakshappa Gouda and another Vs. State of Karnataka and another, 2017(2) RCR (Criminal) 491

3. *State of Maharashtra Vs. Capt. Buddikota Subba Rao, 1989 AIR (SC) 2292.*

4. *Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav, 2004(2) RCR (Criminal) 254.*”

In the present case, the prosecution case is that a body of a youth was found lying on the driver's seat of a motor vehicle. The deceased had left behind a suicide note implicating respondent No.2. It was alleged that respondent No.2 had taken a loan of Rs.50,00,000/- from the deceased but failed to return the same in spite of repeated requests. On the day of occurrence, a threat of false implication is alleged to have been given to the deceased because of which he committed suicide.

First bail application of Gurpreet Singh came before Additional Sessions Judge, Gurugram on 06.06.2019 and the learned Presiding Judge dismissed the same by observing as under:-

“As such the Court is not inclined to admit the petitioner to the concession of regular bail at least till the matter is pending investigation and smooth and fair investigation of this case by the police.”

Next bail application after completion of investigation was assigned by the learned Sessions Judge to another Presiding Officer who after noticing that this is a second bail application, decided the same vide order dated 19.07.2019, challenged in the present petition. The Court has noticed that previous bail application was dismissed. The Court has also noticed that investigations are complete, challan has been presented. It has further been noticed that the accused is in custody since 01.05.2019.

Keeping in view the aforesaid facts, first application in the considered view of this Court was not dismissed on merits. The Court had considered it appropriate not to admit the petitioner to the concession of

regular bail till investigations are pending.

Hence, once the investigations are complete, the second Presiding Judge did not commit any error in entertaining the bail application particularly when it was assigned to the Presiding Judge by the learned Sessions Judge.

Hence, there is no ground to interfere.

The petition is dismissed.

29.08.2019
D.Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No