

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

**CRM-M-38221-2019
Date of decision: 17.09.2019**

Manoj @ Tinni

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Akshay Jindal, Advocate,
Ms. Stuti Goel, Advocate &
Ms. Janya Sirohi, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 278 dated 01.08.2018, registered under Sections 148, 149, 323, 341, 302, 120-B of the IPC and Sections 25/54/59 of the Arms Act at Police Station Tauru, District Nuh (Mewat). The first bail application bearing CRM-M-62020-2018 was dismissed as withdrawn on 11.01.2019.

Learned counsel for the petitioner submits that the grounds for filing the present petition are that all the co-accused have already been granted concession of regular bail as the prosecution witnesses turned hostile.

Learned counsel for the petitioner relies upon order dated 26.08.2019 passed by this Court in CRM-M-5224-2019, whereby co-accused Raiv @ Raju has been granted concession of regular bail. The operative part of the order reads as under:

“Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant Mehboob, his cousin deceased Sahil had a quarrel with Lokesh, Vikas, Dinesh, Chhotu @ Manoj, Leelu, Monu and Mangal. On 01.08.2018, he and his brother were coming towards the village from the side of Tauru a motorcycle, which was driven by Sahil. When they reached near the village, accused persons namely Lokesh, Vikas, Dinesh, Chhotu @ Manoj, Leelu, Monu and Mangal, who were standing on the roadside, stopped their motorcycle and dragged Sahil from the motorcycle and started giving him kick and fist blows. Lokesh fired a shot with his illegal weapon on the chest of Sahil and on that account, he fell down and later on, he died at the spot. It is further submitted that there is no direct allegation against the petitioner and even as per the FIR, Lokesh, who fired the fatal shot, had a dispute with deceased Sahil on an earlier occasion, which was compromised.

Learned counsel for the petitioner has further submitted that all the four relevant witnesses i.e. PW1 Iqbal son of Sadiq, PW2 Abbas Khan son of Daulat Khan, PW3 Shakeel Ahmed son of Ashraf and PW4 Mehboob have stated that some unknown persons have killed Sahil and they were declared hostile by the Public Prosecutor and they even denied making the statement before the police naming the accused persons. It is further submitted that the petitioner is in custody for the last 01 year and 18 days; he is not involved in any other case; out of total 22 PWs, only 04 have been examined and since all the private witnesses have been examined, there is no possibility of tempering with the prosecution evidence.

Learned State counsel has filed affidavit of the Superintendent of Police, Nuh in the Court today, in which it is stated that statements of all the aforesaid persons including complainant Mehboob have been recorded and as per statement of the complainant (Annexure R-4), he has not supported the prosecution version.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last more than one year; he is not involved in any other case and also considering the fact that it will take some time in conclusion of the trial, as out of total 22 PWs, many prosecution witnesses are yet to be examined, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.”

Learned counsel for the petitioner further submits that the main accused Lokesh, who was attributed fatal injuries as per the version in the FIR, has also been granted concession of regular bail by the trial Court.

Learned counsel for the petitioner further submits that the role attributed to the petitioner is that he has given slap and fist blows to the deceased.

Learned State counsel, on instructions from SI Banwari Lal, could not dispute the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that all the accused persons have already been granted concession of regular bail and also in view of the fact that the complainant and other prosecution witnesses have not supported the prosecution version, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

17.09.2019

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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No