

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8548-2020 (O&M)
Date of decision: 05.03.2020

Sohan Lal

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Dr. Deipa Singh, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.83 dated 28.06.2018 under Sections 25/30 of Arms Act, Sections 120-B, 148 149, 302, 307, 323, 427, 506, 201 IPC and Section 3 of SC&ST Act, registered at Police Station Kalka, District Panchkula.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Yograj @ Pinki, on 28.06.2018, he along with his friends, as named in the FIR, had gone to celebrate the birthday of Vikram @ Vicky Chemy near Village Paploha. At about 4.30 in the evening, six cars, having 30 young boys, holding swords, sticks and rods, came there and started fired indiscriminately. The complainant saw Umesh Kumar @ Matru, Akram, Pama, who were having 12 bore gun, Gurmeet @ Rhoda, Madan @ Madu, Satta, Makhan, Rinku, Gola, Deepu Kaimbwala, Saurav Jassu and Billa

were holding pistols and swords and they started firing. Vikram @ Vicky Chemy hide himself at back seat of white Scropio and Umesh Kumar @ Matru, Pamma Baddi and Akram started firing, due to which he died at the spot. The complainant and others, in order to save their lives, started running and they were chased by Makhan Sukhomajri, Madan @ Maddu, Gurmeet @ Rhoda Sukhomajri, Gola, Rinku, Billa, Satta Manakpur, Deepu, Ram Gopal @ Palo, Saurav Jassu and Yashpal @ Yashu and some other persons. The assailants were firing and in that process, Dalip @ Deepa got injuries near his waist, Lakhwinder @ Happy got injuries on arm, Mahinder @ Minder got a sword blow, Harwinder @ Pola got a gunshot injury and Nirmal @ Happy got a rod blow. The assailants also damaged their car standing there with the swords and rods and ran away towards Kalka. It is further stated that the assailants, on asking of Bhupender Singh @ Babbu and Shamlal Tagra, had come to kill the complainant and his friends, because earlier they had a fight with Bhupender Singh @ Babbu and Shamlal Tagra, wherein Shamlal Tagra suffered injuries and they were having grudge against us.

Learned counsel for the petitioner further submits that the petitioner was not named in the FIR and there is a specific motive attributed in the FIR towards co-accused and some of the co-accused have been specifically named, who have caused firearm injuries to Vikram @ Vicky Chemy, who died on the spot. It is further submitted that even the accused persons are specifically named in the FIR, who caused injuries to the injured/eyewitnesses and were trying to run away from the spot and only evidence against the petitioner is the disclosure statements of Hem Raj, Pawan @ Pappi and Pawan @ Billa that he was part of the conspiracy and was in touch with Pawan @ Billa on his mobile

phone and had gone to the place, where the conspiracy was hatched. It is thus submitted that only allegation against the petitioner is of conspiracy and there is no direct allegation against him, of causing any injury to any person, as he was not even named in the FIR.

Learned counsel for the petitioner has also submitted that the petitioner is in custody since 19.07.2018 and despite the fact that a period of 01 year, 07 months and 16 days has passed, till date, no prosecution witness is examined. It is next submitted that even the trial Court has issued warrants against the complainant to appear as a witness, however, he is avoiding appearance before the Court. It is further submitted that the petitioner is first offender and he is not involved in any other case.

Learned State counsel, on the basis of custody certificate dated 04.03.2020 in the Court today, has not disputed the factual position, however, on instructions from ASI Karan Singh, has submitted that it has come in the disclosure statements of co-accused Hem Raj, Pawan @ Pappy and Pawan @ Billa that the petitioner was part of a larger conspiracy, out of which they attacked the complainant party, as a result of which, Vikram @ Vicky Chemy died.

Learned State counsel, however, has not disputed that the petitioner is not named in the FIR and his name surfaced on the basis of disclosure statements of aforesaid three co-accused.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year, 07 months and 16 days; he is not named in the FIR and there is no direct allegation against him and also in view of the fact that till date, no prosecution witness is examined,

this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

05.03.2020

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No