

201-2

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

Reserved on: June 02, 2020

CRM-M-10888 of 2020 (O&M)

Date of decision: June 9th, 2020

Dev Raj @ Dev

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Krishan Singh, Advocate for the petitioner.

Mr. Pardeep Chahar, AAG Haryana.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.83 dated 28.06.2018, under Sections 120-B/148/149/302/307/323/427 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'Arms Act') (Sections 506/201 of IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act') added later on), registered at Police Station Kalka, District Panchkula.

The FIR case was registered at the instance of complainant Yog Raj @ Pinki son of Sucha Ram resident of Village Majra Mehtab, P.S. Kalka, aged 28 years with the allegations that on 28.06.2018, he along with his friends, Satish @ TT resident of Majra Mehtab, Aman son of Satpal, Deepa @ Dalip, Lakhwinder @ Happy, Harvinder @ Pola residents of Majra Mehtab, Vikram @ Vicky (since deceased) resident of Ghatiwala,

Pinjore and Mahinder @ Minder son of Lajja Ram, Village Majra Mehtab gathered at Paploha sand outlet for birthday celebration of Vikram @ Vicky. At about 4.30 PM six vehicles having about 30 young boys armed with sticks, swords, rods, guns etc. came from Kherawali side. He noticed that Umesh Kumar @ Matru, Akram resident of Panga Majri, Ishar Nagar, Pamma resident of Baddi armed with .12 bore guns and Gurmeet @ Roda resident of Sukhomajri, Madan @ Maddu, Satta resident of Manakpur, Makhan resident of Sukhomajri, Rinku resident of Kattal Barottiwala, Gola resident of Khada Pathar Wasudevpura, Deepu Kaimbwala, Sourav Jassu resident of Pinjore, Billa resident of near Chikan, were armed with pistols and swords and they started indiscriminate firing. Upon noticing firing, Vikram @ Vicky tried to hide himself on the rear seat of Scorpio No.HR49-C-9358, but Umesh Kumar @ Matru, Pamma Baddi and Akram fired indiscriminately and due to that Vikram @ Vicky died on the spot inside the Car. When they tried to save themselves, then Makhan Sukhomajri, Madan @ Maddu, Gurmeet @ Roda Sukhomajri, Gola resident of Khara Pathar, Rinku r/o Kattal Barottiwala, Billa resident of Chikan, Satta Manakpur, Deepu resident of Kaimbwala, Ram Gopal @ Pallu R/o Kona, Sourav Jassu, Yashpal @ Yashu Resident of Tagra Hansua, ran after them while firing along with other accomplices and on account of this Dalip @ Deepa suffered a gunshot injury on his waist, Lakhwinder @ Happy suffered a gun shot injury on his arm, Mahinder @ Minder given sword blow, Harvinder @ Pola gun shot injury, Nirmal @ Happy suffered a rod blow. On hearing the firing, people started gathering there and all the assailants damaged one Alto Car (HR-49-C-7838) with their rods and while firing they ran away towards Kalka side in their

respective vehicles. All the assailants had come on the place of occurrence at the instance of Bhupinder Singh @ Babu and Sham Lal Tagra to murder him (complainant) and his friends. All the accused came there on account of previous enmity of the complainant with Bhupinder Singh @ Babu & Sham Lal Tagra, and in order to take revenge, they had sent about 30 young boys of their gang to kill the complainant as well as others, on account of which Vikram @ Vicky died on the spot due to firing whereas others sustained injuries. Bhupinder @ Babu and Sham Lal Tangra connived with each other and sent 30 boys in order to commit the crime and they came in two white colour Scorpio, one white colour Verna car, One white colour Brezza, one white Swift car and one Alto Car of golden colour.

Learned counsel for the petitioner has contended that petitioner is in custody since 28.11.2018, after investigation, challan has already been presented; charges were framed on 29.10.2019 and now the case is pending for prosecution evidence. Further contended that out of total 67 prosecution witnesses, none has been examined till date. Further contended that petitioner is neither named in the FIR; nor anything incriminating was recovered from him; rather petitioner was nominated as an accused on the basis of disclosure statement of co-accused-Madan @ Maddu.

The above factual position is duly acknowledged by the learned State counsel, on instructions from Sub Inspector Zile Singh.

Heard both sides and perused the paper-book.

Concededly, petitioner is in custody since 28.11.2018 and after investigation in the matter, challan has already been presented. Charges in this case were framed on 29.10.2019 and out of total 67 prosecution witnesses, none has been examined till date. Undisputedly, petitioner is

neither named in the FIR; nor anything incriminating was recovered from him during investigation and only on the basis of disclosure of co-accused, he has been implicated in this case. Learned State counsel has duly acknowledged that there is no other criminal case pending against the petitioner except the present one. Since the trial is likely to take sufficient long time, therefore, taking into consideration the facts and circumstances discussed hereinabove, this Court deems it appropriate that further incarceration of the petitioner would not serve any purpose.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

It is clarified that petitioner shall fully cooperate with the proceedings before learned trial Court and in case, there is a failure, prosecution would be at liberty to move an appropriate application for recalling of this order.

(MAHABIR SINGH SINDHU)
JUDGE

June 9th, 2020
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No