

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

CRM-M-13593-2019 (O&M)
Date of Decision: November 24, 2020

Rohit alias Bhima

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. D.S. Matya, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. T.S. Grewal, Advocate, for the complainant.

HARNARESH SINGH GILL, J.

The petitioner seeks grant of regular bail in case bearing FIR No.573 dated 28.07.2017 under Sections 302, 394, 397, 120-B, 34 IPC and Section 25 of the Arms Act, 1959, registered at Police Station Civil Lines, District Gurugram.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the above noted FIR; that he was not named in the FIR and had been implicated later at the instance of the local police in connivance with the complainant and that he has been indicted in the case on the basis of the disclosure statement suffered by the co-accused.

It is argued that another case bearing FIR No.293 dated 03.08.2017 under Section 412 IPC and Section 25 of the Arms Act, 1959, registered against the petitioner, was based on the alleged disclosure statement suffered by the petitioner

therein that he had snatched the revolver used in the murder of one Surender Rana, regarding which the present FIR had been registered. It is, however, submitted that neither the snatching of the said revolver was proved nor the ownership thereof (i.e. the revolver belonged to deceased Surender Rana), which led to the acquittal of the petitioner in the said FIR with the passing of the judgment dated 17.07.2019 by the Sessions Judge, Jhajjar. While emphatically arguing that once it stood proved in the proceedings arising out of FIR No. 293 dated 03.08.2017 that neither the revolver was recovered from the petitioner nor the same was used in the murder of Surender Rana (deceased in the instant case), the false implication of the petitioner stands duly attested. While adverting to the report of the Finger Print Bureau, Haryana, Madhuban filed by the respondent-State with its reply, it is submitted that the chance finger prints did not tally with the 10 digit finger prints as well as the palm prints. On this basis, it is argued that it clearly shows that the petitioner has no role to play in the alleged occurrence.

Still further, it is argued that co-accused Bala stands granted the concession of regular bail by a Coordinate Bench of this Court vide order dated 25.04.2018. Similar relief is granted to another co-accused Ravinder @ Kaidiman vide order dated 20.12.2019 passed by another Coordinate Bench of this Court. Thus, seeking parity with the said co-accused, the petitioner seeks his release on the regular bail.

Per contra, learned State counsel assisted by the counsel for the complainant, while vehemently opposing the

prayer for regular bail, has stated that the petitioner cannot take any benefit of his acquittal in FIR No. 293 dated 03.08.2017, as a perusal of the judgment of acquittal dated 17.07.2019 passed by the learned Sessions Judge, Jhajjar, would show that the petitioner was acquitted by extending him the benefit of doubt and he has not earned such acquittal on merits. Thus, it cannot be said with any certitude at this stage that the revolver used in the present crime, did not belong to deceased Surender Rana and/or the same had not been snatched by the petitioner from him.

On the issue of parity, it is the contention of the learned State counsel as well as the counsel for the complainant that the cases of the said co-accused are on different footing and the petitioner can neither seek nor be granted any indulgence on the basis of parity.

I have heard learned counsel for the parties.

A perusal of the judgment of acquittal dated 17.07.2019 passed by the learned Sessions Judge, Jhajjar, would show that the petitioner has earned his acquittal on a benefit of doubt and not on merit. The findings recorded by the learned Sessions Judge, Jhajjar in the said case need not be dilated, but the fact remains that the confessional statement and the recovery effected in pursuance thereof, could not be proved by the prosecution in the said case by leading cogent and convincing evidence and hence, the Court granted benefit of doubt to the petitioner. A further perusal would show that only

the registration of FIR No.573 dated 28.07.2017 was proved in the said case and not any other evidence led in the said case.

Still further, the matter can be looked from a different angle. The proceedings in the present case, arise out of an independent FIR and the petitioner's guilt in the present case cannot be negated merely due to his acquittal in another FIR, when the very fact remains that the facts, circumstances and evidence in both the cases are different.

On to the point of parity, suffice it to say that as noticed above, co-accused Bala and Ravinder @ Kaidiman, stand granted the benefit of regular bail by the Coordinate Benches of this Court. However, the petitioner cannot seek nor can he be granted such parity for the reason that as disclosed in reply filed by the State, there are two more cases registered against the petitioner (though in one of them i.e. 293 dated 03.08.2017, he stands acquitted). The manner and commission of the crime with the revolver allegedly recovered from the possession of the petitioner, is yet to be proved in the present case on the basis of evidence led. Besides, the criminal antecedents of the petitioner, also disentitles him the relief sought for.

So far as the reliance of the learned counsel for the petitioner on the report of the Finger Print Bureau, Haryana, is concerned, it may be noticed that the said report is not conclusive and in the same very report, it has been opined that the chance prints marked on C, D, E on photograph II, F on photograph III, G on photograph IV, H on photograph V and J on

photograph VII mentioned in para II (a), were found unfit for comparison.

In view of the above, no case for the grant of regular bail is made out. Hence, finding no merit in the present petition, the same is hereby dismissed.

November 24, 2020
ds

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No