

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CRM-M-17535 of 2020
Date of Decision: 08.10.2020

Rahul

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. D. K. Tuteja, Advocate,
for the petitioner.

Mr. Deepak Bhardwaj, DAG, Haryana.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioner seeks the concession of 'regular bail', upon FIR no.239, dated 17.04.2018, having been registered at Police Station Sadar Bahadurgarh, District Jhajjar, alleging therein the commission of offences punishable under Sections 302 of the IPC read with Section 34 thereof and 25/54/59 of the Arms Act, 1959, as also Sections 411 and 120-B of the IPC added later.

On September 10, 2020, the following order had been passed:-

“CRM-22626-2020

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this application, the applicant-petitioner wishes to place on record some documents as Annexures P-6 to P-10.

Notice in the application.

Mr. Deepak Bhardwaj, D.A.G., Haryana, accepts notice on behalf of the non-applicant/respondent.

The application is allowed and the aforesaid documents are ordered to be taken on record as Annexures P-6 to P-10 subject to all just exceptions.

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Pursuant to the previous order, the post-mortem report has been filed showing two entry and two exit wounds on the body of the deceased.

Learned counsel for the petitioner again draws attention to the FSL report, stating that the fired cartridges could not be conclusively connected to the firearm stated to have been recovered from the petitioner/his co-accused.

However, learned State counsel submits that in fact the petitioner was identified by an eye witness (one Surender @ Sewa Singh), upon his statement being recorded under Section 161 of the Cr.P.C.

Adjourned to 08.10.2020.

The Superintendent of Police, Jhajjar, is directed to file an affidavit stating therein as to whether any test identification parade was held after the petitioner and his co-accused were arrested, to enable the complainant, i.e. the brother of the deceased to identify/not identify the petitioner and his co-accused.

If test identification parade was not conducted, the Superintendent of Police would explain as to why it was not conducted.”

An affidavit of the Superintendent of Police, Jhajjar, is stated to have been filed today, a copy of which has been forwarded to me by the Reader of this court by way of a 'Whatsapp' communication, stating therein that since one prosecution witness, i.e. Surender @ Sewa Singh had already identified the

petitioner in a statement made under Section 161 of the Cr.P.C., there was no requirement for a test identification parade to be conducted.

Upon query to learned State counsel as to whether there are any other criminal cases registered against the petitioner, he submits that, as per his instructions from ASI Sumesh, this is the only case registered against him.

That being so, in view of what has also been noticed in the order dated September 10, 2020, further looking at the fact that the petitioner has been in custody for more than 2 years and 4 months, with only two prosecution witnesses out of 31 having been examined so far, without making any comment on the actual merits of the case, the petition is allowed, with the petitioner ordered to be admitted to bail to the satisfaction of the trial court/CJM/Duty Magistrate concerned.

October 08, 2020
dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No