

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-17786 of 2020
Date of decision:23.07.2020

Naveen alias Mohit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Mandeep Singh Kundu, Advocate
for the petitioner.

SUVIR SEHGAL J.

The Court has been convened through video conferencing due to Covid-19 pandemic.

Petitioner - Naveen alias Mohit son of Ashok has filed the present petition under Section 439 of the Code of Criminal Procedure for grant of regular bail in FIR No.20 dated 02.02.2019 under Sections 302, 34 of Indian Penal Code, 1860 (for short "IPC") and Section 25 of the Arms Act, 1959 registered at Police Station Bahadurgarh, District Jhajjar.

Prior to approaching this Court, the petitioner had filed his first bail application which was dismissed as withdrawn on 20.04.2020 and second application for bail was dismissed by the learned Sessions Judge, Jhajjar, vide order dated 11.06.2020 (Annexure P-2).

As per the version of the prosecution, Om Parkash, son of Lakhi Ram submitted a complaint that on 02.02.2019 at around 4.00 p.m. when he was sitting with his sons Krishna and Jasbir near Dada Baiya, a red

coloured Breeza with about 5-6 occupants came to a halt near them. Two occupants, namely Cheenu and Bajrang, stepped out and shot Jasbir repeatedly from a close range and fled away in the car with their friends. Jasbir was rushed to a private hospital where he was declared brought dead. The motive for the attack was a altercation between deceased and Cheenu and Bajrang. Accused Lakshya alias Cheenu made a disclosure statement (Annexure P-1) and the petitioner was arrested on 17.08.2019.

Counsel for the petitioner has urged that the petitioner was not named in the FIR and neither was he present at the spot of occurrence nor any recovery was effected from him. Counsel has argued that no role has been assigned to him in the FIR and there is no evidence to connect him with the alleged murder as he belongs to another village and he has no enmity with the family of the deceased. Statement of co-accused is inadmissible in evidence according to the counsel.

Notice of motion.

Ms. Harpreet Kaur, Assistant Advocate General, Haryana, who is available on conference call, accepts notice on behalf of the respondent-State.

Upon instructions from SI Rakesh Kumar, State counsel has opposed the bail petition and submitted that he was a part of the group of boys who had accompanied the assailants with an intention to commit murder. One of the accused has specifically named the petitioner in his disclosure statement. She further submitted that the petitioner is a member of the gang and is involved in number of other cases. She has filed the

custody certificate of the petitioner which is taken on record.

I have considered the rival submissions of the parties.

From the disclosure statement of Lakshya @ Cheenu (Annexure P-1), it is clear that both Lakshya and Bajrang had a grouse against the deceased as the deceased had abused them and their family. They had sought help from Sanam Dagar who was a member of the gang of Ashok @ Pardhan. On the date of occurrence, Sanam had brought the gun and cartridge and had accompanied them with the petitioner in the vehicle when the two co-accused had shot Jasbir dead.

From the above, it is apparent that the petitioner was an accomplice to homicide. Not only this, the petitioner belongs to the gang of a notorious criminal by the name of Ashok alias Pardhan. Besides the present FIR, he has been named in three other FIRs, details thereof, are as under:-

- i) FIR No.306 dated 07.06.2019 under Section 379 IPC registered at Police Station Sector 9-A, Gurugram.
- ii) FIR No.206 dated 14.06.2019 under Section 379-B IPC and Arms Act, 1959 registered at Police Station Kharkhoda, District Sonipat.
- iii) FIR No.213 dated 24.06.2019 under Sections 186, 332, 353, 307, 420, 467, 468, 471, 411, 412 IPC and Section 25 of Arms Act, 1959 registered at Police Station Kharkhoda, District Sonipat.

Still further, in the present case as informed by the State counsel, the challan was filed on 30.10.2019 and the trial is fixed for 05.08.2020 for framing of the charges. The prosecution witnesses are yet to be examined. One of the main accused namely Bajrang alias Ashish has not been arrested and has been declared as a Proclaimed Offender. There is substance in the apprehension of the prosecution that if the petitioner is enlarged on bail pending trial, he may threaten the witnesses or abscond.

In view of the facts and circumstances noticed above, this Court is of the view that the petitioner does not deserve to be granted the concession of regular bail. The petition is accordingly dismissed.

It is clarified that any observation made herein above shall not be construed as an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

July 23, 2020

savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No