

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

205

CRM-M-17816 of 2020

Date of decision :-30.09.2020

Bhupender @ Bhuppi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Sanjeev Kumar, Advocatefor the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana for the respondent-State.

SUVIR SEHGAL, J.(ORAL)

The hearing of this petition has been taken up through video conferencing on account of outbreak of Covid-19 pandemic.

Through the instant petition filed under Section 439 of the Code of Criminal Procedure, 1973, the petitioner is seeking grant of regular bail in case FIR No.47 dated 22.03.2018 registered under Sections 147, 148, 149, 364, 302, 201 IPC, 1860 and Sections 25, 54, 59 of Arms Act, 1959 (Sections 54 and 59 of Arms Act, 1959, have been wrongly mentioned in the petition) at Police Station Loharu, District Bhiwani (Annexure P-1).

As per the version of the prosecution, co-accused Parvinder and Kuldeep had committed murder of Virender son of the complainant, Raj Kumar, on 21.03.2018 by firing shots at him with the use of a pistol and 4 live cartridges which were supplied to co-accused Parvinder by Bhupender @ Bhuppi, the present petitioner.

Counsel for the petitioner has argued that a false case has been framed against the petitioner and he was not involved in the alleged offence. His argument is that in any case he is being implicated on the basis of disclosure statement of co-accused which is inadmissible in evidence. He contends that the recovery of the alleged weapon of offence was not effected from him. He submits that the petitioner is in custody since the last more than two years and he deserves to be enlarged on bail as the trial is not progressing.

State counsel upon instructions from ASI Dharamvir submits that the petitioner is a hard-core criminal and is involved in three other cases all of which are of a very serious nature. He submits that the final report in the case was filed on 02.08.2018, the charge was framed on 10.08.2018 and the trial is underway. The prosecution has examined 05 out of the total 26 witnesses and the complainant is yet to be examined. He submits that if the petitioner is released on bail, the petitioner might intimidate the complainant and other material witnesses.

I have considered the rival submissions of the parties.

Hon'ble Supreme Court in **Prasanta Kumar Sarkar versus Ashis Chatterjee and others, (2010) 14 SCC 496** laid down various factors which are to be taken into considerations while deciding a petition for grant of bail. The Hon'ble Supreme Court observed as under:-

“11. ...However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well-settled that among

other circumstances, the factors to be borne in mind while considering an application for bail are: -

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) nature and gravity of the accusation;*
- (iii) severity of the punishment in the event of conviction;*
- (iv) danger of the accused absconding or fleeing, if released on bail;*
- (v) character, behaviour, means, position and standing of the accused;*
- (vi) likelihood of the offence being repeated.;*
- (vii) reasonable apprehension of the witnesses being influenced; and*
- (viii) danger, of course, of justice being thwarted by grant of bail.”*

It has come on record that the petitioner is involved in number of other cases, the details of which are reproduced hereunder: -

S.No.	FIR No.	Offence under Section	Police Station
1.	FIR No.47 dated 22.03.2018 (Annexure P-1)	Under Sections 147, 148, 149, 364, 302, 201 IPC and Section 25 of the Arms Act.	Police Station Loharu, District Bhiwani
2.	FIR No.130 dated 14.04.2018	Under Sections 302, 395, 379-B, 396, 397, 307 IPC and Section 25 of the Arms Act.	Police Station Badhra, District Charkhi Dadri
3.	FIR No.239 dated 14.04.2018	Under Sections 451, 393, 34 IPC and Section 25 of the Arms Act.	Police Station Sadar Bhiwani, District Bhiwani
4.	FIR No.275 dated 18.06.2018	Under Sections 174-A IPC.	Police Station Urban Estate, Rohtak

From a perusal of the above chart, it is apparent that after the registration of the present FIR, which is mentioned at Sr.No.1 above, the petitioner got involved in two other criminal cases of murder, dacoity, kidnapping in order to commit murder, use of fire arm, house trespass etc. Yet another FIR was registered against him on account of his non-appearance in response to proclamation under Section 82 of the Code of Criminal Procedure, 1973.

In the background of the parameters laid down by the Hon'ble Supreme Court, this Court has no hesitation in coming to the conclusion that the petitioner is involved in offences of a heinous nature and is a hardened criminal. He has been declared as a proclaimed offender. Keeping in view the nature and gravity of the offences, his character and antecedents and the apprehension expressed by the State, the petitioner is not entitled to the grant of bail pending trial.

The petition is accordingly dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

30.09.2020
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No