

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21475-2020 (O&M).
Date of Decision: August 17, 2020

ARWINDER DASS @ ARVIND Petitioner(s)

Versus

STATE OF HARYANA Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Amit Jhanji, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner prays for grant of bail pending trial in FIR No.346, dated 07.06.2015 under Sections 202, 392, 396, 404, 412, 120-BIPC(Section 25/54/59 of the Arms Act added subsequently), registered at Police Station Rohtak Sadar, District Rohtak. The petitioner's first bail petition was dismissed as withdrawn on 15.05.2018.

Learned counsel for the petitioner argues that the petitioner is sought to be implicated in this FIR only on the basis of disclosure statement of the co-accused Amandeep Singh. The FIR was registered on the statement of Dalbir Singh, who stated that when he had gone for a walk at 3:30 PM on 04.06.2015 on the road opposite to his hotel, he saw dead bodies

of two young men wrapped in blankets, lying in a pit. Signs of injuries were present on the dead bodies. It is stated that unknown persons had murdered the said two persons and left the dead bodies in order to destroy them. The co-accused Amandeep Singh @ Raju and Iqbal Singh @ Kali were arrested in another FIR dated 09.06.2015 under the NDPS Act at Police Station Mandi Gobindgarh, District Fatehgarh Sahib, in the State of Punjab. It is the case of the prosecution that as per the disclosure statement of the said co-accused, they alongwith others including the petitioner, had committed murder of the two young men, whose dead bodies were found by the complainant Dalbir Singh. The deceased were the driver and the conductor of a truck, recovered from Amandeep Singh @ Raju and Iqbal Singh @Kali. Statement of the owner of the truck was recorded as well. He identified the dead bodies.

Learned counsel for the petitioner argues that there is no evidence on record to connect the petitioner with the alleged offence except the disclosure statement of the co-accused. The truck in question, as well as the alleged weapon of offence i.e. knife, was recovered at the instance of the co-accused. Chilli powder is alleged to have been recovered from the petitioner. Learned counsel contends that there is no material on record to evidence presence of the petitioner at the time of the alleged occurrence. In so far as the use of chilli powder is concerned, learned counsel refers to the statement of Dr. Saroj Dahiya, Incharge FSL Unit, S.P. Office, Rohtak, PW-22 (Annexure P-2), who stated that chilli powder was not found inside the cabin of the truck or near the dead bodies. Link evidence in this case, it is submitted, is missing. Furthermore, the co-accused Iqbal Singh has been

afforded concession of bail on 02.02.2017 in CRM-M-35654-2016 (Annexure P-4). The petitioner has been in custody since 17.07.2015. Due to the outbreak of pandemic COVID-19, it is submitted that the trial is not likely to conclude in the near future. It is thus prayed that this petition be allowed.

Learned counsel for the state opposes this petition while arguing that the petitioner is accused of a double murder alongwith other accused and that the prosecution evidence is complete. It is thus submitted that this petition be dismissed.

The present is a case, admittedly resting entirely on circumstantial evidence. Learned counsel for the State on instructions from Sub-Inspector Baje Singh verifies that the petitioner has been in custody since 17.07.2015 and has been inculpated on the statement of the co-accused. Chilli powder is alleged to have been recovered from him. The truck, of which the deceased were driver and conductor, was recovered from other co-accused, as was the weapon of offence. It is further not denied that the co-accused Iqbal Singh has been granted concession of bail pending trial.

There is no allegation that the petitioner is likely to abscond or influence witnesses. Due to outbreak of the pandemic COVID-19 trial is not likely to be concluded in near future. No useful purpose would be served by keeping the petitioner incarcerated any longer.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition is allowed. The petitioner be released on bail pending trial

subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court/Duty Magistrate.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

17.08.2020
Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No