

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CRM-M-21144 of 2020
Date of decision:6.8.2020

Rakesh @ Midda

... Petitioner

versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Udit Mendiratta, Advocate,
for the petitioner
Mr.Manish Bansal, DAG, Haryana
Mr.Gagandeep Rana, Advocate,
for the complainant

...

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.

This is the 3rd petition filed by the present petitioner, seeking to be admitted to 'regular bail', upon FIR no.395, dated 14.12.2017, having been registered against him at Police Station Narnaund, District Hisar, alleging therein the commission of offences punishable under Sections 307/120-B/ 216 of the IPC and Section 25 of the Arms Act, 1959.

Learned counsel for the petitioner submits that though, undoubtedly, two similar petitions filed by the petitioner earlier have been dismissed, the last one being only on 17.6.2020, however, it was not brought to the notice of this court at that stage that at the time of the occurrence, the petitioner was already in custody in another case and

therefore, he could have nothing to do with the occurrence itself.

Before going on to that contention raised by learned counsel, the order passed by this court on 17.6.2020 in CRM-M-6070 of 2019 (also filed by the petitioner), is reproduced hereinbelow:-

All the 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, filed under the provisions of Section 439 Cr.P.C., the petitioner seeks the concession of 'regular bail', upon FIR no.395, dated 14.12.2017, having been registered at Police Station Narnaund, District Hisar, alleging therein the commission of offences punishable under Sections 307, 120-B and 216 of the IPC, and Section 25 of the Arms Act.

After hearing arguments at some length of the counsel for the petitioner and learned State counsel, as also learned Senior Counsel appearing for the complainant, when this court was not inclined to grant the concession of bail to the petitioner keeping in view the fact that there are other cases of serious nature registered against him, Mr. Virk submits that the petitioner has been in custody for the past 2 years and 6 months and cannot be kept behind bars indefinitely, if the trial keeps extending.

Mr. Rana, learned Senior Counsel, rebuts that contention by submitting that the petitioner and his co-accused are deliberately trying to frustrate the trial after a direction was

issued by this court that the injured witnesses be examined, because thereafter upon one injured witness being examined, two of the co-accused, who were absconding, surrendered before the trial court, so as to frustrate that examination which would have to be conducted again.

He further submits that three co-accused of the petitioner are still at large and therefore if the petitioner is admitted to bail, especially keeping in view his antecedents, he would try to intimidate the witnesses, and therefore he should not be admitted to bail.

Having heard learned counsel for the parties, I am not inclined to grant the concession of bail to the petitioner and consequently the petition is dismissed on the reasoning submitted by Mr. Rana, learned Senior Counsel appearing for the complainant, with which I agree.

However having said that, it is made absolutely clear that this court has not made any observation on the merits of the case, which would obviously be subject matter of the evidence to be considered by the trial court, with the observations of this court only being in the context of this petition by which the petitioner seeks the concession of being bailed out from custody.”

Prior to that, CRM-M-34722 of 2018 had been withdrawn by learned counsel appearing at that stage for the petitioner, as recorded in the order dated 11.10.2018.

As regards the contention raised by learned counsel for the petitioner today, that the petitioner was in custody on the date that the occurrence took place, i.e. 13.12.2017, upon query to learned State counsel, he submits that that is undoubtedly so but there are ten other FIRs registered against the petitioner (as has been duly disclosed in the petition itself), and some of them allege the commission of an offence punishable under Section 302 of the IPC; though he has been acquitted in four of the aforesaid criminal proceedings.

He further submits that as per investigation carried out, the petitioner is the mastermind behind the occurrence in question wherein the complainant was shot in the head, with one bullet thereafter grazing his right arm, and another person accompanying the complainant having been hit with bullets on his knee and the palm of his hand.

Sill further, he submits that the petitioner has been found to be (as per investigation) a *Supari* killer, i.e. a person who commits crimes including murders upon being paid to do the same.

Considering the above but without making any comment whatsoever on the merits thereof, even though learned counsel for the petitioner has submitted that the petitioner has been admitted to bail in all other six cases which are still pending against him, in the aforesaid circumstances, even taking into account the period of his custody (2 years and 7 months), I do not think it is a fit case where the petitioner can be granted bail. Consequently, this petition is dismissed.

However, as already observed hereinabove and in the last order, nothing stated in this order or in previous orders passed, shall be

treated to be an observation of this court on the merits of the case, which naturally would be gone into as per the evidence led before the trial court.

6.8.2020
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No