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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24045-2020 (O&M)
Date of Decision: 28.08.2020

AKBAR

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Munfaid Khan, Advocate for
Mr. Khalid, Advocate
for the petitioner.

Mr. Rajat Gautam, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.396 dated 14.05.2019, registered under Sections 148, 149, 285, 323, 364, 452 IPC (Section 302 IPC added later on) and Section 25 of the Arms Act at Police Station Nuh, District Nuh.

The FIR was lodged by one Saikul with the allegations that at about 12.30 a.m., the complainant and others heard cries of his brother Sakir and his wife Yasmin. Complainant, his wife,

his father and his mother woke up and came out and saw that 10-12 persons were standing and pulling Sakir forcibly. Those persons were Sapat, Junaid sons of Kallu, Deenu, Bashir and Rashid along with 5/6 unknown persons. When the complainant tried to rescue his brother, then Junaid gave a blow on left side of his neck with a pointed weapon. He gave second blow in the abdomen of the complainant from reverse side. They also gave injuries to the sister-in-law of the complainant namely Yasmin and they forcibly kidnapped Sakir in a vehicle. The complainant-party chased them, then Sapat fell down from the vehicle at the Chowk. Sapat was apprehended. The remaining accused while firing, took away Sakir forcibly in the vehicle. They had come in two vehicles. Sapat was tied with ropes in the Chowk and police was informed. Sapat ultimately died on that very day on account of injuries on his person.

FIR No.397 dated 14.05.2019 under Sections 148, 149, 307, 302, 365 IPC and Sections 25/54/59 of the Arms Act was registered in respect of murder of Sapat. Deenu was the complainant in the said FIR which was registered at about 2.47 p.m. The FIR was registered on the basis of original complaint made by the Deenu at about 12.40 p.m. Deenu did not accompany the accused party while taking away Sakir in the vehicle. Deenu remained with the Police in the process of

making complaint and getting the FIR registered in respect of death of Sapat.

As per prosecution case, Sakir was thrown from the vehicle in village Kaithwada-Khoh road. The Police has recorded the statement of one Khursid in this context on 15.05.2019 i.e. at that time when Sakir was alive. Police has also prepared some video of Sakir in which he disclosed something about the incident.

Learned counsel for the petitioner submitted that in the proceedings arising out of the bail petition before the trial Court in respect of co-accused, the Police has taken a stand that when Sakir was thrown out of the vehicle in village Kaithwada (Rajasthan), name of the petitioner did not figure. His name appeared only in the disclosure statement of co-accused which suggested that he was part of alleged conspiracy.

Learned counsel further submitted that the police has not collected any incriminating material, suggesting involvement of the petitioner in the abduction of Sakir in any manner except to allege complicity arising out of Section 120-B IPC.

Per contra, learned State counsel opposed the prayer on the ground that the petitioner is one of the conspirators, whose name has been disclosed by the co-accused. Challan

has been presented and no prosecution witness has been examined so far. Petitioner is in custody since 07.03.2020. Due to the situation arising out of COVID-19 pandemic, the trial of the case may take some time in its culmination.

Keeping in view the alleged complicity of the petitioner and without adverting to the merits of the case and also in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

August 28, 2020

Atik

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No