

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25339-2020
Date of Decision: 04.09.2020

PAWAN KUMAR

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rajesh Duhan, Advocate for the petitioner.

Mr. Amrik Singh Narwal, DAG Haryana.

Mr. Nonish Kumar, Advocate for the complainant.

*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

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VIVEK PURI, J. (ORAL)

The petitioner has prayed for grant of regular bail in case FIR No.352 dated 29.7.2018, under Sections 148/149/307/302/379/120-B IPC 1860 and 25-54 of Arms Act, 1959 registered at Police Station Butana, District Karnal.

Briefly, the FIR was registered on the basis of the statement of Naresh Kumar alleging that on 29.7.2018, Krishan along with his brother i.e. Petitioner (Pawan Kumar), Jasbir Singh @ Jabra and Sunny armed with firearm came towards his brother Suresh. Krishan fired a gunshot with an intention to kill Suresh, who ran inside the shop to save himself. Krishan along with the co-accused followed Suresh in the shop. Gunshots were fired indiscriminately which resulted in the death of Suresh.

It has been contended by learned counsel for the petitioner that on

the day of occurrence petitioner had gone to Nalagarh to deposit composition fee with regard to a challan under Motor Vehicles Act. He has relied upon the copy of the receipt, Annexure P-1. It has been further stated that the co-accused namely Bhajan Lal and Kapil have been granted bail by the Co-ordinate Benches of this Court.

On the contrary, it has been pointed out by learned State counsel that no reliance can be placed upon the receipt at this stage. Moreover, the occurrence took place at about 10/10.30 A.M. and the receipt could have been procured during the later part of the day. Moreover, the case of the petitioner cannot not be termed to be at par with the co-accused namely Bhajan Lal and Kapil as their names have not been mentioned in the FIR and have been sought to be implicated on the strength of Section 120-B IPC.

It may be mentioned here that it would be too early to accept the plea of alibi as projected by the petitioner. The legality, validity and genuineness of the receipt is to be adjudicated by the trial Court after the defence evidence has been adduced in this regard. There are allegations with regard to indiscriminate firing which resulted in the death of the brother of the complainant. The name of the petitioner has been specifically and categorically mentioned in the FIR. Furthermore, Krishan, the brother of the petitioner to whom the firearm injury has been attributed has been declared proclaimed offender. The petitioner has played an active role in the commission of crime. The petitioner was accompanying his brother Krishan, who fired gunshots at the time of occurrence, which had rendered active support in commission of crime. The petitioner cannot claim parity with the co-accused who have been granted bail as their names do not find

B IPC. Bhajan Lal co-accused was granted bail as he was nominated on the basis of supplementary statement recorded after about six months of FIR wherein also the allegations were that he conspired with co-accused and provided monetary assistance. Kapil, co-accused was granted bail as it was not disputed that his case was at par with Bhajan Lal.

The gravity of allegations, nature of evidence and severity of sentence in the event of conviction are the significant factors which are to be looked into at the time of extending the concession of bail.

Keeping in view the entire circumstances of the case, no justified ground is made out to extend the concession of bail to the petitioner.

For the aforesaid reasons, the present petition for regular bail is dismissed.

04.09.2020

Janki

(VIVEK PURI)
JUDGE

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