

Sunil @ Ullu

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vinod Ghai, Sr. Advocate with
Ms. Kanika Ahuja, Advocate
for the petitioner

Mr. Munish Sharma, AAG Haryana

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 516 dated 03.10.2015 registered under Sections 302, 307, 34 IPC and Section 25 of Arms Act, 1959 (Sections 212, 120-B IPC added later on) at Police Station Ganaur, District Sonipat.

Learned senior counsel for the petitioner submits that the petitioner has been in custody for almost 3 years and 7 months. Only 6 witnesses have been examined out of a total of 33 prosecution witnesses. Thus, the trial is not likely to be concluded at an early date. All the eye witnesses and material witnesses have been examined and, thus, there can be no apprehension that the petitioner might attempt to influence the witnesses. The evidence on record till date attributes the same role to the petitioner as two co-accused Surender and Praveen. Said Surender and Praveen had motive to kill the deceased as is evident from the case of the prosecution. No recovery of weapon has been effected from the petitioner and similarly situated co-accused Surender and Praveen have been granted regular bail.

Thus, keeping in view the custody already undergone and on the principle of parity

the petitioner deserves to be granted regular bail.

Learned State counsel concedes that only 6 PWs have been examined till date. He, however, opposes the bail on the ground that there are three other criminal cases pending against the petitioner. Reliance is also placed upon the polygraphic test report of the petitioner wherein he has admitted that aforementioned Surender and Praveen gave him money to purchase the weapon which was used to commit the murder. Moreover, he has stated that aforementioned Surender and Praveen were not present at the time of the incident. The expert conducting the test has opined that the responses are not deceptive. Thus, case of the petitioner is different from the case of co-accused Surender and Praveen and there is no parity. The petitioner is a professional killer and does not deserve to be granted regular bail.

In response, learned senior counsel for the petitioner argues that two out of three pending criminal cases arise out of one and the same incident. The petitioner has been granted regular bail by the trial Court in the said cases as his presence at the spot of the incident could not be established. The third case, although under Section 307 IPC, is a case of no injury and the petitioner is on bail in the said case also.

From the arguments of counsel for the parties, it is evident that the petitioner has been in custody for almost 3 years and 7 months and that the trial is not likely to be concluded at an early date. Admittedly, the eye witnesses and material witnesses stand examined. Thus, there can be no apprehension that the petitioner would attempt to influence the witnesses. In any case, if he does so the State can always seek cancellation of his regular bail. That apart, the evidence as on date, indicates that co-accused Surender and Praveen also fired at the victim. The case of the prosecution is that they were the moving force behind the crime

and, thus, I would say that the case of the petitioner is on a better footing than the

aforementioned co-accused. Thus, I deem it appropriate to grant regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

October 14, 2020

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No