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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M No. 32375 of 2020
Date of Decision: 22.12.2020

Dilbag @ Bhagi

-Petitioner

Vs

State of Haryana

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Harvinder Singh Maan, Advocate,
for the petitioner.

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

RAJ MOHAN SINGH, J.

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

Petitioner in his second attempt seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.464 dated 18.10.2017 under Sections 302, 307, 120-B, 34 IPC and under Section 25 of Arms Act registered at Police Station Kaithal City, District Kaithal.

CRM-M No.25751 of 2019 was disposed of vide order dated 16.01.2020 with the observations that since the official witnesses are to be examined, the needful be done for examination of all the witnesses within 06 months from the date

already fixed before the trial Court and the trial Court shall make every endeavour to conclude the trial within a further period of 03 months thereafter.

FIR was registered at the instance of Salinder son of Jogi Ram in respect of murder of his brother whose marriage was solemnized with Pooja, sister of the petitioner. Marriage of Balinder was solemnized with Pooja about 03 years ago from the date of registration of FIR on 18.10.2017. Family members of Pooja were not happy with the said love marriage. Pooja was blessed with a son aged 2½ years. Pooja used to speak with her mother, but she was not on speaking terms with other family members. On 18.10.2017, at about 10 A.M., Balinder asked for motorcycle of the complainant as he wanted to go to Kaithal to meet Pooja's mother, aunt and brothers. The complainant gave his motorcycle to Balinder and Balinder went to Kaithal along with his wife and son. The complainant was having suspicion and that is why, he along with his uncle Kitab Singh went to Kaithal on the motorcycle of his uncle. They sat in Jawahar park on one side out of the site of Pooja's aunt, mother and brothers. Complainant saw that at about 03 P.M., Sunil and Dilbag (petitioner) started manhandling Balinder. Complainant and his uncle ran towards Balinder and in the meanwhile, Sunil and petitioner fired bullets at Balinder from their pistols. Balinder fell

down. Sunil and Dilbag (petitioner) fled away from the spot along with their weapons.

Learned counsel for the petitioner submitted that Pooja (PW2) has not supported the prosecution case and she has exonerated the petitioner.

Learned counsel also referred to the statement of alleged eye witness (PW3) wherein he has admitted in his cross-examination that he was present at his house and PW1 Salinder came to his house when the deceased was murdered and thereafter, both had gone to the house of Sarpanch Krishan Punia and Master Zile Singh and thereafter, they came to the hospital.

Learned counsel further submitted that the deceased had suffered only one gun shot injury fired from .12 bore country made pistol. One .12 fired cartridge was lifted from the place of occurrence i.e. Mark C/1 which did not match with the country made pistol mark W/1 statedly recovered from the petitioner.

Learned counsel for the petitioner sought to argue the case on the basis of material collected by the police.

At this stage, this Court would not like to comment upon legality of material collected by the police, lest it may prejudice the case of both sides during trial.

Prima facie consideration of the material i.e. laboratory examination would show that report of FSL, Madhuban dated 27.02.2018 is in the context of parcel II i.e. parcel contained one 12 bore fired cartridge case stated to have been lifted from the place of occurrence (marked cartridge case as C/1). Parcel V i.e. parcel contained one lead slug stated to have been taken out from the body of deceased Balinder in reference PMR No.SM/AS/RM/267/KTL/2017 dated 19.10.2017 (first sent to serology Division in original packing and then examined in ballistic Division, marked lead slug as BC/1). Parcel VI contained one country made pistol (Chambered for 12 bore cartridges) stated to have been recovered from accused Dilbag (petitioner) (marked pistol as W/1). Parcel VII contained one country made pistol (Chambered for .315) .315 fired cartridge case stated to have been recovered from accused Sunil Kumar (marked pistol as W/2 and cartridge case as C/2).

Examination result would show that lead slug marked BC/1 has been fired from country made pistol marked W/1 recovered from the petitioner and not from any other firearm of some make because every firearm has given its own individual characteristic mark.

In result No.4, no definite opinion could be formed regarding linkage of 12 bore fired cartridge case marked as C/1

with country made pistol marked as W/1 due to lack of sufficient comparable individual characteristic mark as it is pertinent to mention that percussion cap was found to be perforated.

The aforesaid FSL report would be subject to scrutiny of the court in terms of its evidentiary value.

At this stage, no such final opinion can be made, but keeping in view the complicity of the petitioner as well as the stage of trial, at this stage, I do not intend to grant any indulgence in favour of the petitioner.

Petitioner is found to be the main accused.

Dismissed.

22.12.2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No