

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-32489-2020 (O&M)
Date of decision: 28.10.2020

Kuldeep @ Gorla

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr.V. P. Sangwan, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana
for the respondent-State.

SUVIR SEHGAL J. (ORAL)

The hearing of this petition has been taken up by means of
video conferencing on account of outbreak of Corona Virus (Covid-19).

CRM-25450-2020

For the reasons given in the application, same is allowed and
the true typed copies of the documents, Annexures P-1 to P-5 are taken
on record.

Main case.

This is the second time, the petitioner has approached this
Court under Section 439 of the Code of Criminal Procedure, 1973, for
grant of regular bail in FIR No.0047 dated 22.03.2018, Annexure P-1,
registered under Sections 147, 148, 149, 364 of Indian Penal Code, 1860

and Section 25 of Arms Act, 1959 (later on Section 302/201 IPC was added) at Police Station Loharu, District Bhiwani.

FIR, in question, was registered on the basis of the complaint given by Raj Kumar son of Singh Ram, wherein he stated that his son, Varinder Singh, deceased, was married with Kavita Devi, who was Jat by caste, against the wishes of her family members, who wanted to get her married elsewhere. As a result, her family members were hostile towards his son. On 21.03.2018, when his son and daughter-in-law had gone to meet the family of Kavita, he received information that some persons had assaulted his son and were trying to abduct him. The complainant reached the spot with his daughter, Babli, and saw that 7-8 persons were forcing his son into the Scorpio, in which Kuldeep @ Gorla (present petitioner) was sitting on the driver's seat with a pistol in his hand. His daughter-in-law, Kavita, was also in the vehicle. Some persons standing outside the vehicle were also carrying pistols in their hands. Evidently, the abduction was with an intention of homicide. He searched for them and when he failed to locate them, he filed the complaint wherein he named the petitioner, uncle and brother of Kavita, besides others, as accomplices. Subsequently, the dead body of Varinder was recovered and the petitioner and co-accused were arrested.

Counsel for the petitioner has argued that a false case has been registered against the petitioner and there is a delay of one day in registration of the FIR. He submits that eye-witness Kavita (PW5), wife of the deceased, whose testimony has been appended as Annexure P-5, has stated that the petitioner is not involved in the commission of the

offence. He submits that the petitioner is in custody since 25.09.2018 and deserves to be enlarged on bail keeping in view his period of custody.

Per contra, learned State counsel, upon instructions from ASI Dharamvir has opposed the petition on the ground that the complainant and other material witnesses are yet to be examined. He further submits that the petitioner has number of cases registered against him and he is a possible threat to the prosecution witnesses.

I have considered the rival submissions of the parties.

The alleged delay of one day has been explained by the complainant as he stated in the complaint that he searched for his son before he reported the incident to the police. There is no substance in the argument raised by the counsel for the petitioner that Kavita, wife of the deceased, has turned hostile. The apparent reason for her turning hostile is not difficult to understand. One of the persons accused of abducting and murdering the son of the complainant is the brother of Kavita. Therefore, her statement recorded during her examination, in itself alone, is not sufficient to come to the conclusion that the petitioner is innocent.

Still further it deserves to be noticed that the petitioner has a criminal past. He is involved in four other cases, the details of which are as under:-

Sr. no.	FIR No.	Under Section/s	Police Station
1	202/25.11.2017	457, 380 of IPC	Kanina, Mahendergarh
2	60/21.05.2016	398, 401 of IPC	Bawal, Rewari
3	246/25.09.2013	61 of Excise Act	Loharu
4	185/24.07.2014	323, 341,506 of IPC	Loharu

A perusal of the above reproduced chart shows that the petitioner has a criminal disposition and he is dangerous. His release on bail is likely to pose a threat to the complainant and his daughter who are the eye-witnesses and whose evidence is yet to be recorded by the trial Court.

Moreover, the first petition seeking regular bail filed before this Court was dismissed as withdrawn after arguments on 09.06.2020, Annexure P-5. The petitioner has neither pleaded nor he has been able to point out any variation in the circumstances which has necessitated in the filing of the second petition and that too within four months of the dismissal of the first petition. The filing of the second petition amounts to seeking review of the order passed earlier, which is not permissible in criminal law.

Keeping in view the totality of the facts and circumstances noticed above, this Court is of the view that the petitioner is not entitled to grant of concession of bail pending trial, at this stage. The petitioner is accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

28.10.2020

pooja saini

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No