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

**CRM-M No.31732 of 2019
Date of Decision: 22.01.2020**

Vikas

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Ms. Baljit Mann, Advocate
for the petitioner.

Mr. Anmol Malik, A.A.G., Haryana.

RAJ MOHAN SINGH, J.

[1]. Petitioner prays for grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.88 dated 12.08.2018, registered under Sections 302, 34 IPC and Section 25 of the Arms Act (Sections 120-B, 420 and 201 IPC added later on) at Police Station Rohrai, Rewari.

[2]. In compliance of the order dated 08.01.2020 passed by this Court, learned State counsel has filed status report along with recovery memo of the recoveries effected from the petitioner. The same is taken on record.

[3]. Copy of disclosure statement of accused in FIR No.19

dated 15.01.2019 registered under Sections 307, 353, 186, 34 IPC and Sections 25/54/59 of the Arms Act at Police Station Sector 10 Gurugram has been placed on record by learned counsel for the petitioner.

[4]. The FIR has been registered at the instance of Pawan Kumar. Perusal of the same would reveal that the occurrence took place when Arun Kumar had gone to Rohrai turning to purchase fruits on 12.08.2018 at about 8.30 a.m. from the shop of one Raja. At about 9.00 a.m., the complainant received a telephonic call from one Sunil informing him that his brother Arun Kumar has been shot dead by three unknown persons. The complainant reached the spot, where he was given a slip by the aforesaid Raja that was left by the assailants in the shop stating that Arun Kumar was murdered by Chand and Anil Pandit at the instance of Sube Sarpanch Gangster of village Bar Gurjar. The reason for murder of Arun Kumar was that he had played role in the murder of friend of Sube Sarpanch. The FIR was registered against the aforesaid persons.

[5]. In the slip, names of Sube Singh, Chand and Anil Pandit were specifically mentioned, who had committed murder of Arun Kumar to take revenge of murder of friend of Sube Sarpanch. The police recorded the statements of witnesses namely Sukhram shopkeeper, Sunil Kumar and others under

Section 161 Cr.P.C to the effect that Arun Kumar was called to the shop of aforesaid witness Sukhram by one Amit @ Meete. On arrival of Arun Kumar at shop, two boys came on a motorcycle and gunned down Arun Kumar. After killing him, the said boys fled away from the spot. Amit @ Meete fled away. He was also arrayed as an accused in the case.

[6]. The CCTV footage collected by the Police also revealed that Chand Ram, Anil and Amit @ Meete were present at the scene of murder of Arun Kumar. Chand Ram and Anil had fired several rounds at the deceased. Chand Ram was arrested along with the present petitioner in FIR No.19 dated 15.01.2019 registered at Police Station 10-A, Gurugram, where disclosure statement of the petitioner was recorded. In the said disclosure statement petitioner is alleged to have disclosed his complicity in the present case as well.

[7]. Petitioner was produced in the present case on production warrant. During investigation, petitioner is alleged to have made his disclosure statement in respect of his involvement in the present case and also got recovered one country made pistol .32 bore with three live cartridges. The aforesaid material is the incriminating material against the petitioner so as to involve him in the present case.

[8]. By referring to the disclosure statement made by the petitioner in FIR No.19 dated 15.01.2019 registered under Sections 307, 353, 186, 34 IPC and Sections 25/54/59 of the Arms Act at Police Station Sector 10 Gurugram, learned counsel for the petitioner submitted that there was no whisper about the alleged weapon recovered in the present case. In the present case there is no allegation of use of weapon so recovered which is country made pistol .32 bore. In the present case petitioner is implicated solely on the basis of disclosure statement made in FIR No.19 dated 15.01.2019 which is not permissible in the eyes of law. Out of total 51 witnesses, no prosecution witness has been examined so far.

[9]. *Per contra*, learned State counsel on instructions from SI Birender Singh submitted that petitioner was involved in the present case as per disclosure statement made by him in FIR No.19 dated 15.01.2019 and thereafter his further disclosure statement was recorded in the present case which led to recovery of one country made pistol .32 bore. Petitioner is involved in some other cases also and he is in custody for the last about one year.

[10]. With the assistance of learned counsel for both the parties, I have gone through the material on record.

[11]. Initial version was recorded in respect of involvement of three persons which are ultimately identified as Chand Ram, Anil and Amit @ Meete. The complicity of the petitioner would remain debatable in view of the fact that he has been implicated solely on the basis of disclosure statement made in the police custody. The country made pistol allegedly recovered in the present case has not been used in the present case, but presence of the petitioner is shown that too on the basis of disclosure statement made in FIR No.19 dated 15.01.2019. Two disclosure statements have led to recoveries of two different weapons.

[12]. Petitioner was involved in FIR No.96 dated 17.05.2012 registered under Section 18 of the NDPS Act and Sections 420, 465, 468 and 471 IPC at Police Station Phillaur, Jalandhar. In the said case, petitioner has been acquitted vide judgment/order dated 21.11.2016 passed by the Judge, Special Court, Jalandhar. Petitioner was also involved in FIR No.222 dated 29.05.2016 registered under Section 25 of the Arms Act at Police Station Model Town, Rewari. In the said case, petitioner has been sentenced for the period already undergone vide judgment/order dated 06.05.2019 passed by the Addl. Chief Judicial Magistrate, Rewari. Similarly, in FIR No.120 dated 14.05.2017 registered under Sections 323/341/506/34 IPC and

Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Sahalawas, the petitioner has been acquitted by the Addl. Sessions Judge, Jhajjar vide judgment/order dated 19.07.2017. In FIR No.19 dated 15.01.2019, reference of which has been given in the preceding paras, the petitioner is on bail, which has been granted by the Addl. Sessions Judge, Gurugram vide order dated 15.06.2019.

[13]. At this stage, without adverting to the merits of the case, I am of the view that petitioner, who is in custody since 15.02.2019 can be enlarged on bail.

[14]. 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.

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

January 22, 2020

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No