

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

103

CRM-M-52566-2019
Date of decision: 23.12.2020

Annupal @ Annu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Mehak Sawhney, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

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

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.306 dated 02.07.2019 registered under Sections 148, 302, 120-B, 404 and 216 read with Section 149 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 25 of the Arms Act, 1959 at Police Station Kurukshetra University, Kurukshetra to which Section 404 of the IPC was added lateron.

The above said FIR was registered on complaint made by Rahul. In the complaint Rahul alleged that about three months back he along with his partners Sandeep and Jitender had gone to village Dhand to attend a marriage where an altercation took place between Rahul and others and Jatinder and others due to which Rahul and others had broken the leg of Jitender regarding which FIR was registered in Police Station Dhand. After sometime Parveen brother of Jitender had broken the leg of Kala regarding which FIR was registered at Police Station Dhand. The complainant and Sandeep were supporting Parveen and Jitender due to which Rahul and others had grudge against them. On 02.07.2019 complainant along with Sandeep had gone to Kurukshetra

in car being registration No.HR-68-Z-5210 to meet his friend for taking

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I attest to the accuracy and
authenticity of this document

payment of Rs.2,00,000/-. On their return at about 3:15 P.M. when they reached in front of Dera Darshan Singh, 10-12 boys armed with country made pistols, gandasi and sua (big needle) came in Bolero car bearing registration No.HR-64-3985 and attacked them. Rahul, Parveen Kumar and Kala fired shots from their country made pistols which hit on the left arm, on the right shoulder and on the chest of Sandeep. Gurmeet gave sua blows on his chest. Kapura gave a sua blow on left side and Sehwash gave gandasi blow on the thighs of Sandeep. Due to injuries caused Sandeep died on the spot. Sandeep was murdered on the asking of Mandku and Amarjeet Singh. Pursuant to registration of FIR, the police investigated the case and arrested Ranjit Singh, Satnam, Gurmit, Rahul, Sehwash and Annupal @ Annu (the petitioner) and filed challan against them.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Sh. Ajay Kumar, HPS, DSP, Kurukshetra.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner was not named in the FIR. The petitioner was not present at the spot and is not alleged to have caused any injury. The petitioner has been falsely implicated in the second disclosure statement of co-accused Rahul. Initially Rahul had alleged in his first disclosure statement that co-accused Gurmeet Singh @ Preet was asked for doing recee for Rs.20,000/- out of which recovery of Rs.5,000/- was also allegedly made by the police but in his second disclosure statement Rahul alleged that on the day of occurrence he had telephoned the petitioner and assigned the work of doing recee to him. The disclosure statement of co-accused has no weight in the eyes of law. The petitioner is not involved in any other case. The petitioner is in custody since 29.07.2019. Trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that the petitioner had actively participated in the commission of the offences. In view of gravity of the accusation the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner who was not named in the FIR and is implicated on the basis of alleged disclosure statements made by co-accused Rahul, role attributed to him, the period of his custody and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of COVID-19, but without commenting on merits of the case, I consider it appropriate that the concession of regular bail be extended to the petitioner.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that the petitioner shall not intimidate any of the prosecution witnesses or commit any similar offence after his release on bail and in case of intimidation of any of the prosecution witnesses or commission of similar offence by him after his release on bail, his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

23.12.2020

Kothiwal

(ARUN KUMAR TYAGI)
JUDGE

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