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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-654-2021

Date of Decision : 13.01.2021

Pintu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Shakti Singh, Advocate for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the first petition, filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in FIR No.589 dated 14.07.2018 under Sections 120-B, 302, 34 of the IPC and Section 25 of Arms Act, 1954 registered at Police Station Assandh, District Karnal, Haryana.

Learned counsel for the petitioner relies upon order dated 18.11.2020 passed in **CRM-M-20440-2020**, vide which co-accused Raj Kumar alias Michal has been granted the concession of regular bail by passing the following order:-

“This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 589 dated 14.07.2018, registered under Sections 120-B, 302, 34 of the IPC and Sections 25, 54, 59 of the Arms Act at Police Station Assandh, District Karnal.

“Learned counsel for the petitioner submits that as per the allegations in the FIR, registered on the statement of complainant Anil, it is stated that he was having a liquor vend and earlier petitioner Raj Kumar alias Michal was his employee, whose services were terminated and a new salesman, namely Sripal, was appointed. It is further stated that on that account, petitioner, along with co-accused Khabbar @ Ravinder, Surender and one unknown person, came to the liquor vend of the complainant and Khabbar @ Ravinder fired a shot on the chest of said Sripal and thereafter, they all ran away from the spot. Thereafter, said Sripal called complainant and informed him about the incident and he was taken to a hospital, where he died.

“Learned counsel for the petitioner further submits that petitioner is in judicial custody since 17.08.2018 and said Sripal died on account of only one fire arm shot which was in fact fired by co-accused Khabbar @ Ravinder. It is further submitted that even the recovery of weapon was effected from the said co-accused.

Learned counsel further submits that during investigation, two of the co-accused, namely Surender and Sanju, were found innocent and after examination-in-chief of Anil/complainant was recorded, an application under Section 319 Cr.P.C. was moved for summoning the said accused, however, the same was dismissed by the trial Court as well as by this Court.

Learned counsel further submits that cross-examination of Anil was never conducted and in the meantime, he has died in an accident, therefore, it will be a debatable issue to be decided during trial whether the said evidence can be read as evidence in the absence of cross-examination.

Learned State counsel could not dispute the factual position, however, on the basis of the affidavit of DSP, Assandh, has opposed the bail on the ground that even in the disclosure statement of Khabbar @ Pintu, the name of the petitioner has surfaced and the recovery of weapon was also effected from Khabbar @ Pintu. Learned State counsel further submitted that even the petitioner has made a disclosure statement to this effect and another co-accused Joginder @ Nikka has also made disclosure statement in another FIR, wherein a 315 bore pistol was recovered from him.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is not involved in any other case and complainant Anil has died prior to conducting his cross-examination and also in view of the fact that petitioner is in judicial custody since 17.08.2018, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

Learned counsel for the petitioner further submits that as per the

armed with fire arms and Khhabar alias Ravinder fired a gun shot on the chest of the victim whereas, the petitioner has allegedly fired the shot in the air.

Learned counsel for the petitioner further submits that there is only one injury suffered by the victim which is not attributed to the petitioner.

Learned State counsel has not disputed the factual position and submitted that petitioner is in judicial custody since 08.08.2018 and out of 30 prosecution witnesses, only 3 witnesses have been examined so far and the trial is delayed due to COVID-19 situation.

Without commenting upon the merits of the case, considering the fact that petitioner is not involved in any other case and Sripal has died prior to conducting his cross-examination and also in view of the fact that petitioner is in judicial custody since 08.08.2018, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

13.01.2021

Waseem/Chetan

(ARVIND SINGH SANGWAN)
JUDGE

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