

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

CRM-M No.9259 of 2021 (O&M)
DATE OF DECISION: 19.08.2021

Soraj @ Sheoraj

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Gautam Dutt, Advocate for the petitioner

Ms. Ambika Sood, DAG Haryana

Mr. Kunal Dawar, for the complainant

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ALKA SARIN, J.:

Heard through video conferencing.

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner pending trial in FIR No.351 dated 28.06.2020 under Sections 148, 149, 323, 324, 341 of the Indian Penal Code, 1860 (IPC), offences under Sections 325, 302, 120B IPC were added later on, registered at Police Station Mujesar, Faridabad, District Faridabad. The first petition under Section 439 CrPC (CRM-M-39084-2020) was dismissed as withdrawn on 01.12.2020.

Learned senior counsel for the petitioner would contend that the petitioner was not named in the FIR nor any role was attributed to the petitioner. The FIR was lodged on the statement of the deceased Ankit. The

learned senior counsel would further contend that the name of the petitioner figured for the first time in the second disclosure statement of his own son Abhishek, a co-accused. It is further contended that Abhishek allegedly suffered two disclosure statements. In the first disclosure statement dated 05.07.2020, the accused Abhishek said nothing qua the petitioner, his father. In the subsequent disclosure statement dated 06.07.2020 Abhishek is stated to have said that the earlier statement suffered by him was false and he further stated that he planned to kill Ankit on getting information from his father (the petitioner herein) that family members of Ankit gave him i.e. his father (Sheoraj, petitioner herein) and his mother beatings. Further, it has been contended that there is nothing in the second disclosure statement that the petitioner ever instigated Abhishek and others to kill Ankit. The learned senior counsel for the petitioner would further contend that the trial is not progressing and the petitioner has been in custody since 17.07.2020. The learned senior counsel would further state that the change in circumstances in the present case since the filing of the first petition for regular bail is that nothing incriminating has come out qua the petitioner except for the fact that the petitioner was named in the second disclosure statement of the accused Abhishek.

A status report has been filed by way of affidavit of Dalbir Singh, HPS, Assistant Commissioner of Police, Mujesar, District Faridabad wherein it has been stated that the present petitioner was arrested on 17.07.2020 on the basis of the disclosure statement of a co-accused. It has further been stated that the role of the petitioner in the present case is that the petitioner is alleged to have instigated the commission of the crime. He

talked to his son, namely, accused Abhishek repeatedly on his mobile phone and it was according to his wishes that all the co-accused gave Ankit beatings resulting in his death. It has further been stated that the challan already stands presented against all the accused and charges were also framed on 24.02.2021. Out of total 20 witnesses, no witness has been examined till date.

I have heard the learned counsel for the parties.

In the present case the petitioner was neither named in the FIR nor any role was attributed to him. The FIR was lodged by the deceased himself. Thereafter, on the basis of the second disclosure statement suffered by the accused Abhishek the petitioner was arrested on 17.07.2020. The petitioner has been in custody for a period of over one year. Though the charges have been framed, the trial has not progressed in as much as out of the 20 witnesses none has been examined till date.

In view of the above and keeping in mind the fact that the name of the petitioner has figured in the present case only on the basis of the second disclosure statement of the accused Abhishek as also the fact that the petitioner is already in custody for over a period of one year, I deem this to be a fit case for grant of regular bail. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

**(ALKA SARIN)
JUDGE**

19.08.2021
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NOTE: Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
