

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18257-2021 (O&M)
Date of decision: 02.12.2021

Sandeep

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Dhull, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.589 dated 14.07.2018 under Section 302, 120-B, 216, 34 IPC and Section 25 of Arms Act, registered at Police Station Assandh, District Karnal.

Learned counsel for the petitioner relies upon the order dated 13.01.2021 passed in CRM-M-654-2021, vide which co-accused Pintu was granted the concession of regular bail. The operative part of the order reads as under: -

*“...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 allegations in the FIR, the petitioner along with one Khabbar alias Ravinder were armed with fire arms and Khabbar 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...”

For the sake of brevity, facts are not reproduced again.

Learned counsel for the petitioner submits that as per allegations in the FIR, the petitioner had caught hold of deceased, whereas co-accused Pintu fired in the air. It is further submitted that one another co-accused Raj Kumar @ Michal had also been granted the concession of regular bail vide order dated 18.11.2020 passed in CRM-M-20440-2020.

Reply by way of affidavit of the Investigating Officer/ASI Shri Bhagwan, presently posted at Police Station Munak, District Karnal, filed in the Court today, is taken on record and in this affidavit, after verifying the facts of the case and the investigation conducted, it is stated that during the investigation, the petitioner suffered a disclosure statement that he along with co-accused Pintu and Raj Kumar @ Michal has committed the murder of deceased Siri Pal and further stated that he and Michal caught hold of the deceased and Pintu had fired in the air and with his pistol, one Jogender gave firearm in the chest of Siri Pal and thereafter, he fled away.

Learned State counsel, on the basis of custody certificate dated 01.12.2021 filed in the Court today, has submitted that the petitioner is in custody for the last 02 years, 02 months and 02 days and is involved in two more FIRs under Section 307 IPC and two FIRs under Section 174-A IPC. It is further submitted that out of total 34 prosecution witnesses, 09 PWs have been examined.

After hearing learned counsel for the parties, without commenting

anything on merits of the case and considering the fact that the petitioner is in long custody and two of his aforesaid co-accused have already been released on regular bail, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

02.12.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No