

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

CRM-M No.20649 of 2020 (O&M)

Decided on: 04.01.2021

Ram Karan

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

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

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Veneet Chaudhary, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.44 dated 13.02.2017, for offence punishable under Sections 365 of the Indian Penal Code, 1860 (in short 'IPC') (Sections 364, 302, 201, 450, 511, 506, 120-B IPC added later) registered at Police Station Gohana City, District Sonapat.

Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of Prehlad son of Kehar Singh, it is stated that on 11.02.2017, he had gone to his in-laws house in village Rukhi where he was informed that his brother-in-law Balbir Singh had gone to Chopra Colony, Gohana. Thereafter, he came back and on 13.02.2017, he again went to village Rukhi and was informed that his brother-in-law Balbir Singh has not returned back. Thereafter,

he looked for him by making enquiries from some persons and information was given to the police for registration of the FIR.

Counsel for the petitioner has further submitted that thereafter, an SIT was constituted and during the investigation of FIR No.100 of 2017 registered under Sections 332, 353 and 307 IPC at Police Station Tilak Nagar, New Delhi, the police arrested 04 persons namely Ramesh @ Mesha Pehalwan, Sushil @ Sheela, Sushil @ Ullu and Amit @ Lamba and they made their disclosure statements before the police that they in conspiracy with their accomplices had murdered Balbir Singh, Sandeep Badwasani and Surender Rathi on 11.02.2017 at Gohana by fire-arms.

The police, thereafter, investigated the case further and another FIR No.55 of 2017 was also registered at Police Station Sadar Sonapat. The petitioner was arrested in both the FIRs on the basis of the disclosure statement made by one of the co-accused Rajesh @ Sarkari.

Counsel for the petitioner has further argued that the petitioner is in custody since 21.06.2017 and out of 69 prosecution witnesses, 08 PWs including the complainant Prehlad as well as 03 prosecution witnesses who were cited as an eye-witnesses namely Ashu, Kuldeep and Sachin, have already been examined as PW-3 to PW-6.

Counsel for the petitioner has also submitted that all the 03 witnesses were declared hostile as they did not support the prosecution version and when they were cross-examined by the Public Prosecutor and were confronted with their statements, they have even declined having made any such statement.

Counsel for the petitioner has further submitted that even in the statement of Prehlad, who appeared as PW-4, it has come that he was informed by his brother-in-law that he was under threat from the petitioner and one Boda. It is further submitted that Prehlad has further stated that the aforesaid 03 persons were killed in the house of Boda at Chopra Colony, Gohana by the petitioner – Ram Karan, Naresh, Jasbir, Sonu Malik Inspector Gandhra, Satyawar Malik Gandhra, Vicky Chittana, Ajit Fauji, Ramesh @ Meesa, Vijay Farmana, Amit @ Lamba, Sheela Sarpanch, Rajesh @ Sarkari, Boda and his wife.

Counsel for the petitioner has also submitted that Naresh was declared innocent whereas 02 persons namely Boda and Satyawar Malik have died during the course of trial.

Counsel for the petitioner has placed on record the orders granting regular bail to Jasbir, Ajit Fauji, Amit @ Lamba, Sheela Sarpanch as well as Rajesh @ Sarkari on whose disclosure, the petitioner was nominated as an accused.

Counsel for the petitioner has further relied upon the order dated 15.09.2020 vide which the petitioner was granted bail in FIR No.55 of 2017 wherein certain observation was made and this fact was noticed that Rajesh @ Sarkari has been granted the concession of bail on whose disclosure statement, the petitioner was nominated as an accused in the present case.

Counsel for the petitioner has, thus, argued that considering the fact that the entire case is based on circumstantial evidence and 03 of the witnesses have been declared hostile and it will be matter of trial as to how the statement of Prehlad is to be appreciated

as the counsel for the petitioner submits that it is a hear-say evidence.

Counsel for the petitioner has also placed on record the orders Annexures A-3 to A-10, vide which he has been either granted the concession of bail in other FIRs or has been acquitted by the trial Court after facing the full length trial, in the cases which are mentioned in the custody certificates filed by counsel for the State.

Counsel for the State, assisted by counsel for the complainant, has however, opposed the prayer for bail on the ground that the petitioner is involved in some other FIR but could not dispute the fact that either he is on bail or he has been acquitted in some of the cases.

Counsel for the complainant has further argued that if the petitioner is granted bail he may try to influence the prosecution witnesses, however, it is not disputed that all the private witnesses have already been examined and the petitioner is in custody for the last more than 3 ½ years. It is also not disputed that the petitioner was nominated on the basis of the disclosure statement of co-accused Rajesh @ Sarkari, who has already been granted the concession of regular bail in both the FIRs.

Counsel for the State also could not dispute the fact that in FIR No.100 registered at New Delhi, the petitioner is not nominated as an accused.

After hearing the counsel for the parties, considering the long custody of the petitioner and also in view of the stage of the trial and also the fact that 03 of the prosecution witnesses were declared hostile; the custodial interrogation of the petitioner is not required and

the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

04.01.2021

yakub

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