IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.-M No.26028 of 2020
Date of Decision: July 05, 2021

Faijan alias Innam

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gunjan Mehta, Advocate,
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

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MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.320 dated 27.12.2017, under Sections 302, 307, 380, 382, 392, 393, 397, 458, 459, 460, 120-B, 34 IPC, 1860 and Section 25 Arms Act, 1959, registered at Police Station, Uklana, District Hisar. The petitioner is in custody since his arrest on 06.01.2018.

As per the allegations in the FIR, the occurrence took place on 27.12.2017 at around 2.45/3.00 AM when a noise was heard and it was noticed that the cattle is being loaded in a pick up van in front of house of Dalip. As per the prosecution, the complainant has given the particulars of three assailants, who were present at the spot and were loading the buffaloes belonging to the complainant in the pick up van. Inderpal (now deceased) had made an attempt to get free the buffalos from the assilants, but in reaction a gun shot was fired by one of the three assailants, causing his

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death.

Learned counsel for the petitioner has argued that the names of assailants were not given in the FIR, however, during investigation, in all five accused, namely, Ehsaan, Afzal, Farman, Usman and Faizan were implicated as accused. He submits that as per prosecution, the victim died of gun shot injury, which was fired by co-accused Farman. He has further produced the copy of the order dated 26.11.2018 to contend that his co-accused, namely, Ehsaan and Afzal have already been released on regular bail, therefore, the petitioner also deserves the similar concession. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Pardeep, on the ground that the offence is serious and the petitioner is also involved in the crime. However, it is not disputed that two co-accused have been released on bail and only two witnesses have been examined so far by the prosecution. According to him, in all there are twenty nine prosecution witnesses and the next date before the trial court is 12.07.2021 for recording prosecution evidence.

At this stage, Mr.Gunjan Mehta, learned counsel has pointed out that the two witnesses examined by the prosecution are the eye-witnesses and the remaining witnesses are the officials witnesses, therefore, further custody of the petitioner may not be necessary.

After hearing the learned counsel for the parties, considering the custody of the petitioner and the fact that co-accused of the petitioner have already been released on regular bail, this Court is of the opinion that the further custody of the petitioner may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on

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06.01.2018, as the prosecution is yet to examine remaining twenty seven witnesses and it may take considerable time to conclude the trial.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Hisar.

July 05, 2021 **(MANOJ BAJAJ)**
ramesh **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No

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