

In virtual Court

CRM-M-30367-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30367-2020 (O&M)

Date of decision: 27.04.2021

Shyam Lal

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. H.P.S. Ishar, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

CRM-11419-2021

For the reasons stated in the application, same is allowed and application submitted by the complainant for protection and statement of the complainant are taken on record as Annexures P-28 and P-29 respectively.

CRM stands disposed of.

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Prayer in this petition is for grant of regular bail in FIR No.83

dated 28.06.2018 under Sections 120-B, 148, 149, 302, 307, 323, 427 IPC and Section 25 of Arms Act (Sections 506, 201 IPC, Section 30-54-59 of Arms Act and Section 3 of SC&ST Act were added later on), registered at Police Station Kalka, District Panchkula.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Yograj @ Pinky, on 26.06.2018, he along with his friends, as named in the FIR, had gone to celebrate the birthday of Vikram @ Vicky, wherein six vehicles carrying out 30 people came there. All of them were armed with sticks, rods and firearm etc. Umesh Kumar @ Matru, Akram and Pamma were having 12 bore guns, whereas Gurmeet @ Roda, Madan @ Maddu, Satta, Makhan, Rinku, Deepu, Billa, Gola, Saurav @ Jassu were armed with pistols and swords. At the same time, Vikram @ Vicky Kemmi hide himself behind the backseat of Scorpio bearing registration No.HR-49C-9358 and Umesh @ Matru, Pamma along with Akram started firing on the said vehicle, due to which Vikram @ Vicky Kemmi died at the spot.

Learned counsel for the petitioner further submits that allegations against the petitioner are that when an SIT was constituted under the supervision of Assistant Commissioner of Police, Panchkula, accused Ganesh Kumar @ Gola, Bhupinder Kumar @ Baboo and petitioner Shyam Lal were arrested and thereafter, other accused were also arrested and during the investigation, mobile phone of the petitioner and Bhupinder Kumar @ Baboo were recovered and taken in possession and on basis of the same, the petitioner

has been falsely implicated. Learned counsel has relied upon certain orders, vide which some of the co-accused have been granted the concession of bail either by this Court or by the Court of Sessions, noticing their role.

Reply by way of affidavit of Assistant Commissioner of Police, Kalka is on record, in which the details of the investigation and the manner, in which the accused persons were arrested and their disclosure statements were recorded, are given. So far as petitioner Shyam Lal is concerned, it is stated that during the investigation, it has come that he along with Bhupinder Kumar @ Baboo were running BSB Gang in the area of Kalka and they were mastermind for committing murder of Vikram @ Vicky and in a pre-planned manner, the petitioner and Bhupinder Kumar @ Baboo had gone to Goa in advance to create a defence of alibi, however, they remained in touch with other accused on their mobile phones, detail of which is given in the affidavit.

Learned State counsel submits that on the date of occurrence, as many as 12 calls were made by the petitioner to co-accused, while he was in Goa. It is also submitted that the petitioner was earlier involved in some other cases, though he was acquitted and he is mastermind of committing the offence, as even another FIR No.183 dated 09.12.2017 under Sections 148, 149, 323, 452, 506, 307 IPC and Section 25/54/59 of Arms Act was lodged by the petitioner against other party Yograj @ Pinky due to past enmity.

A perusal of statement of complainant Yograj @ Pinky dated 19.02.2021 recorded as PW1 by the trial Court shows that he has duly supported the prosecution version and has named petitioner Shyam Lal and

Bhupinder Kumar @ Baboo as the principal conspirators and in that incident, Vikram @ Vicky Kemmi was murdered.

In reply, learned counsel for the petitioner has relied upon the order dated 18.09.2020 passed in SLP (Crl.) No.3103/2020, vide which one co-accused Paras Rana was granted the concession of regular bail, by passing the following order: -

“Having heard learned counsel for the parties, we are of the view that the High Court was wrong in not enlarging the petitioner on bail. Further, 11 co-accused have also been granted bail in the same incident, bail, therefore, be granted to the petitioner, subject to the usual conditions to be imposed by the trial Court.

The Special Leave Petition stands disposed of.

Pending applications, if any, also stand disposed of.”

After hearing learned counsel for the parties, I find that the persons, who have been granted bail by different orders, are the persons, who are allegedly present at the spot, whereas allegations against the petitioner are that he is mastermind of the entire episode and is running BSB Gang. As per affidavit of ACP, Kalka, the petitioner had gone to Goa prior to the alleged incident in a pre-planned manner and he was in touch with other accused, as per the call details.

However, this Court is bound to follow the order dated 18.09.2020 and to avoid any conflicting view, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds

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to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate,
concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

27.04.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No