

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

CRM-M-3863-2020(O&M)

Date of decision:-24.3.2021

Gaurav Kataria

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.APS Shergill, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

Mr.Manish Soni, Advocate
for the complainant.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner - Gaurav Kataria, aged about 26 years, resident of village Basia, Sector 9, Gurugram – an accused in FIR No.1352 dated 23.7.2019, under Sections 302, 307, 379-B, 120-B IPC and Section 25 of Arms Act, registered with Police Station Shivaji Nagar, Gurugram.

Briefly stated, facts of the case as per prosecution story are that the criminal machinery in this case was set into motion by complainant Sunil Kataria son of Charan Singh Kataria, resident of village Basi Nair, Ex-Chairman of Galli Station Sector-9, Gurugram, who in the written complaint submitted by him to the police stated that he along with his brother Manjit Kataria had been working as commission agent at Khandsa vegetable market; that Manjit Kataria deceased had an argument

with Amit alias Lalu and the latter threatened to kill the former; on 23.7.2019 at about 5:30/6:00 in the evening Amit alias Lalu had a quarrel with Manjit Kataria and Amit alias Lalu took a *desi katta* and fired a shot therefrom at Manjit Kataria, hitting him in the abdomen; after receiving gun shot injury Manjit Kataria ran towards the main road to save himself followed by Amit alias Lalu, who snatched a scooty from a rider and then chase Manjit Kataria; the complainant and his partner Pritam alias Bunty followed him but Amit alias Lalu managed to escape; the complainant brought his brother Manjit Kataria injured to Medanta Hospital, where he was treated.

On the basis of such complaint, formal FIR was recorded. Amit alias Lalu was arrested in this case on 23.7.2019 itself. He was interrogated, during the course of which he suffered a disclosure statement and got a revolver, three live cartridges, one empty shell and snatched scooty recovered from his possession. He also got the place of incident demarcated. The investigation revealed that Amit alias Lalu had a talk with Gaurav Kataria (present petitioner) disclosing to him that he wanted to kill Manjit Kataria and Gaurav Kataria should provide him with a firearm, in that way, Amit alias Lalu and Gaurav Kataria had conspired to kill Manjit Kataria and Gaurav Kataria provided a *katta* along with four live cartridges to Amit alias Lalu. Manjit Kataria had succumbed to the injuries suffered by him on 30.7.2019 and offence under Section 302 IPC was added. The present petitioner/accused Gaurav Kataria was arrested in this case on 4.9.2019. He was interrogated, during the course of which he stated that he had procured the *katta* and cartridges from one Amit alias

Kalu, who in fact brought the same from Nawab from Meerut and that *katta* along with cartridges have been given by petitioner/accused to Amit alias Lalu, which had been used in the incident. The investigation revealed that there had been exchange mobile calls between accused Amit alias Lalu and Manjit Kataria deceased and between Amit alias Lalu and Gaurav Kataria, a day prior to the incident.

The petitioner/accused had approached the Court of Sessions at Gurugram by filing an application for regular bail, which was assigned to learned Additional Sessions Judge, Gurugram. However, his such application was dismissed by learned Additional Sessions Judge, Gurugram vide order dated 30.11.2019. As such the petitioner/accused has approached this Court with same request.

Notice of the petition was given to respondent – State and counsel representing the State puts in appearance. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner/accused has argued that petitioner/accused is not named in the FIR and he was wrongly involved in this case at a later stage since a dispute had taken place between him and the deceased earlier, which has since been resolved and further there is no evidence to connect him with the crime, as such he be granted regular bail.

This prayer is being opposed by learned State counsel as well as counsel for the complainant.

It has been pointed out that though in the original complaint submitted by the complainant to the police name of petitioner/accused Gaurav Kataria is not mentioned as one of the culprits but in his supplementary statement got recorded on that very day, the complainant had clarified that there had been a fight between his brother Manjit Kataria deceased and Gaurav Kataria petitioner/accused about tomatoes 3-4 days earlier and Gaurav Kataria was angry with Manjit Kataria deceased. The deceased had a fight with Amit alias Lalu about unloading of vegetable carts, therefore, Gaurav Kataria and Amit alias Lalu used to be angry with Manjit Kataria and the complainant had come to know that Gaurav Kataria along with Amit alias Lalu had shot Manjit Kataria in the abdomen with the intention to kill him.

It being so, the argument advanced by learned counsel for the petitioner/accused that petitioner has been involved in this case much later as an afterthought loses much of the steam. Though as per the prosecution story the bullet, which hit Manjit Kataria had been fired by Amit alias Lalu but then Amit alias Lalu is said to have opened fire on Manjit Kataria in pursuance of criminal conspiracy in which the present petitioner was active participant being involved in planning and execution of the incident. As the prosecution story goes Amit alias Lalu had taken the present petitioner Gaurav Kataria into confidence with regard to his intention to commit murder of Manjit Kataria asking him to procure a firearm and rounds for that purpose and petitioner/accused Gaurav Kataria did so fully knowing the purpose for which the weapon and cartridges were intended to be used and had handed over the same to actual shooter

Amit alias Lalu. The call details of mobile phone of Amit alias Lalu, Manjit Kataria deceased and petitioner Gaurav Kataria also corroborate the prosecution story. It comes out to be a well planned murder with petitioner/accused being an active participant in the episode. The trial is at initial stage. The guilt of the accused shall be determined during the trial. The apprehension expressed by the State counsel that if released on bail, there is every likelihood of the petitioner trying to tamper with the prosecution evidence by giving threats and inducement to the prosecution witnesses and absconding even to prolong the trial, cannot be brushed aside lightly.

Thus in my considered view the gravity and seriousness of allegations with likelihood of petitioner tampering with the prosecution evidence and even absconding being there, no ground for grant of regular bail to the petitioner is made out.

Finding no merit in the petition, the same stands dismissed.

24.3.2021

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No