

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

222

CRM-M-6345-2022

Date of decision:09.08.2022

VIJAY KUMAR

...petitioner

V/S

STATE OF HARYANA

...respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr.Simranjit Singh Sidhu, Advocate for
Mr.Nishant Indal, Advocate
for the petitioner

Mr.Surinder Kumar Dagar, DAG Haryana

Mr.Sachin Rai Vaid, Advocate
for the complainant

Amol Rattan Singh, J. (Oral)

This petition has been filed under the provisions of Section 439 Cr.P.C., for grant of 'regular bail' to the petitioner in the context of FIR No. 0257 dated 09.07.2018, registered at Police Station Naraingarh, District Ambala, for the alleged commission of offences punishable under the provisions of Sections 148,149 and 302 of the IPC, and Section 25 of the Arms Act, 1959 (with Sections 506, 212 and 120-B of the IPC having been added later).

This is in fact the third such petition filed by the petitioner, the first two having been withdrawn, obviously when this Court was not inclined to admit the petitioner to bail, at that stage.

On 13.07.2022 the following order had been passed by this

Court:

As already recorded in the order passed yesterday, two “private witnesses” are yet to be examined by the trial court, with the next date of hearing in the trial being 03.08.2022.

Today learned counsel for the complainant appears and reiterates that even prosecution witnesses had been granted protection and in fact one of the PSOs attached with such witness was unfortunately killed and another injured, and therefore the petitioner does not deserve to be admitted to bail, until at least all private witnesses are examined, if even thereafter.

What is to be noticed by this court that the petitioner is admitted to have been in custody for 4 years and there is no other FIR is shown to have been registered against him; and the role ascribed to him is that of having conducted surveillance/reconnaissance (recce) and therefore as regards admitting him to bail after 4 years of custody, possibly his case would not be the same as his other co-accused, who have other FIRs also registered against them and who are also alleged to have been involved in the shooting of personal security officers assigned to the witnesses.

Learned counsel for the complainant ardently submits that at least one more opportunity be granted for the remaining two “private witnesses” to be examined. Hearing in this petition is adjourned to 09.08.2022, with the trial court requested to send another report as regards whether the remaining two 'private witnesses' have been examined or not.

To be taken up at 1:45 p.m.

Today, even learned counsel for the complainant submits that one “private witness” out of the two referred to in that order has been examined, with the other having been given up as he refused to testify.

The report of the trial Court is also to the same effect, also further giving details of other witnesses examined.

That being so, looking at the period of custody of the petitioner and the fact that out of 49 prosecution witnesses only 17 witnesses have been examined so far and specifically of course, as regards the role ascribed to the petitioner, without making any comment on the actual merits of the case, the petition is allowed, with the petitioner ordered to be admitted to bail to the complete satisfaction of the trial court.

However, the petitioner would be so admitted to bail only if he also furnishes an undertaking before the trial Court prior to being admitted to bail that he would not live in his own house which is stated to be opposite the house of the deceased and where his wife and family are stated to be living. Learned counsel for the complainant submits that earlier also this Court had observed to that effect in the petition earlier filed by the petitioner.

Further, the petitioner shall also report to the police station nearest to the place where he would be actually staying (not in the same village as the family of the deceased) every week, with the SHO to record a finding after determining that the petitioner is actually living at the address that he would claim to be living at, before the police authorities of that police station.

The DSP, under whose jurisdiction the place of residence of the petitioner after he is admitted to bail, would fall, shall submit a monthly report in this petition, even though the same is being disposed of today, in

that regard, obviously after duly verifying as to where the petitioner is staying.

It is made absolutely clear that the petitioner shall not even visit the village/place where the family of the deceased is living, i.e. Shahjadpur, during the pendency of the trial.

The case file be put up before this Court on 16.09.2022 for examining the report of the DSP.

A copy of this order be given under the signatures of the Court Secretary attached to this Court for onwards conveyance to the SP Ambala and the DSP concerned.

It is also made absolutely clear that admitting the present petitioner to bail would obviously not mean that this court has taken any view whatsoever as regards the other co-accused, even for the purpose of admitting/rejecting bail petitions if any are filed, the petitioner herein having been admitted to bail only in view of the role ascribed to him along with the custody period (seen with that role), as also noticed in the order dated 13.07.2022.

Any other petitions filed by co-accused would be decided wholly on the basis of their merits, obviously also looking at the antecedents of the accused thereof.

(AMOL RATTAN SINGH)
JUDGE

09.08.2022

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Whether speaking/reasoned : Yes/No

Whether Reportable :

Yes/No