

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

CRM-M-8296-2021 (O&M)

Date of decision: 21.04.2022

Yogesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. B. R. Rana, Sr. Advocate with
Mr. Shubham Singh, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 305 dated 16.11.2015, registered under Sections 148, 149, 459, 449, 302, 201, 216, 411, 506, 120-B of the IPC and Section 25 of the Arms Act, 1959 at Police Station Nangal Chaudhary, District Mahendergarh.

Learned senior counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of complainant Rama Devi, it is stated that she had four children, out of them, Bimla Devi, who was the eldest one, was married at village Biharipur and was murdered on 21.08.2015. It is further stated that her son Mahesh was also murdered in 2015, therefore, due to fear, her other sons, namely Patram and Satpal, used to live outside with their respective families, however, she along with her husband lives in the village. It is further stated that her maternal grandson

Sandeep was also murdered in December, 2014 in front of Court Complex, Narnaul and her husband was a witness in aforesaid murders. It is further stated that in the last night, Bhim Singh, Sube Singh, Ashok, Dharambir, Bimla, Virendra and Vikram and daughter-in-law of Subhash, whose name she does not know, broke open the door of her house and fired on Shree Ram indiscriminately and he died on the spot. She and security guards of the deceased were on the point of pistol. The assailants escaped by scaling the wall after extending threat to kill her and her family, if all the pending cases are not compromised.

Learned senior counsel further submits that the petitioner was not named in the FIR and was declared a proclaimed offender on 06.03.2017 and was arrested on 13.03.2020. It is further submitted that in the intervening period, 10 persons faced full length trial before the Court of Additional Sessions Judge, Narnaul and vide judgment dated 20.07.2019, four persons namely Sanjay, Rahul, Virender @ Jhuthar and Danvir were held guilty of commission of offence punishable under Sections 148, 149, 302, 449, 506(II) of the IPC, accused Rahul and Virender were also held guilty for the offence punishable under Section 25 of the Arms Act, however, other accused namely Bhim Singh, Deepak, Manohar, Chaman @ Pawan and Rohit were acquitted of the charges framed against them by giving benefit of doubt.

Learned senior counsel has further referred to another judgment dated 31.10.2019, passed by the trial Court, vide which co-accused Pardeep @ Dharma, who also faced full length trial, was acquitted by observing that his presence was ruled out from the deposition of alleged eyewitnesses, whereas charge of criminal conspiracy was not made out by the prosecution

during the trial of other accused (the first judgment) and the prosecution did not lead fresh evidence to prove the charge of criminal conspiracy against accused Pardeep.

Learned senior counsel further submits that now the petitioner is again facing trial and the only evidence against the petitioner is the disclosure of co-accused Virender, who stands convicted.

Learned senior counsel has further referred to disclosure statement of aforesaid co-accused Virender, recorded on 23.01.2016, wherein he has given the details of the earlier instances and with regard to petitioner, he has stated that on 15.11.2015, he, Vikram @ Papla, Chaman, petitioner Yogesh, Danvir, Rohit, Rahul, Pardeep @ Dharma were sitting in the fields of petitioner Yogesh and we made a plan to kill Shreeram and petitioner has provided a stolen Apache motorcycle to him. It is further submitted that except for this, there is nothing on record that the petitioner has actively participated in the commission of crime and co-accused Pardeep @ Dharma, who was also named in the said disclosure already stands acquitted by the trial Court by recording a finding that there was no evidence of criminal conspiracy proved by the prosecution.

Learned senior counsel further submits that the petitioner is in judicial custody for the last 02 years, 01 month and 05 days and conclusion of trial is likely to take a long time.

Reply, by way of the affidavit of the Investigating Officer, is on record, vide which, after verifying the investigation conducted, it is stated that four of the co-accused have already been convicted and 05 co-accused have been acquitted by giving benefit of doubt. It is also stated that co-accused Pardeep @ Dharma has also been acquitted.

In para 7 of the aforesaid affidavit, it is stated that the name of the petitioner surfaced in the disclosure of a co-accused and he was the part of the conspiracy to commit the murder of Shree Ram. It is also stated that out of total 48 prosecution witnesses, 03 witnesses have been examined so far.

After hearing learned counsel for the parties, considering the aforesaid facts and circumstances and also going through the aforesaid judgments, wherein the main accused have been convicted and some of the co-accused have been acquitted, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

21.04.2022*Waseem Ansari***(ARVIND SINGH SANGWAN)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*