

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

CRM-M-8539-2022 (O & M)

Date of decision: 31.08.2022

Anubhav Sharma

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vinod Kumar Pandey, Advocate, for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.176 dated 29.04.2015 registered under Sections 302, 201, 120-B IPC and Sections 25/27(1)/54-59 of the Arms Act at Police Station Pataudi.

2. The present FIR came to be registered at the instance of Balraj, father of the deceased-Gonu Yadav, who stated that he was a resident of village Sikhopur, Police Station Kherki Daula, District Gurugram. On 29.04.2015, his elder son Gonu was going to his uncle's house at village Gurawara, District Rewari in his car bearing registration No.HR 26BY 6672 at 4.00 p.m.. When his son reached near Balwant Singh Petrol Pump at Kulana Road, some unknown persons got stopped the car of his son and when his son tried to run away, they fired upon him. The complainant raised

suspicion that the said persons had murdered his son due to an old enmity.

3. During the course of investigation, an accused Lalit @ Kale was arrested on 07.05.2015. He was interrogated and he disclosed the names of Arun son of Jaswant and Arun @ Baniya. The said two accused came to be arrested on 07.05.2015. On their disclosure statement, it came forth that Arun son of Jaswant and Priyanka, wife of the deceased-Gonu, were in relationship and she had provided the location of her husband-Gonu (since deceased) to the accused persons.

Thereafter, Priyanka was arrested and got recovered a mobile phone. During remand, Arun son of Jaswant and Arun @ Baniya got demarcated the place where they conspired to kill the deceased. Lalit @ Kale also got recovered the swift car, a country-made pistol (desi katta), one cartridge and one mobile phone. As he had stated that he had destroyed the SIM card of the mobile phone, Section 201 IPC was added. Accused Arun son of Jaswant got recovered his Scorpio car, country-made pistol, cartridge and mobile phone alongwith the SIM card. Arun @ Baniya got recovered the mobile phone alongwith the SIM card.

The co-accused, namely, Ajit @ Jeetu and Mukesh @ Kalia were initially untraceable. Therefore, the challan came to be submitted against Lalit, Arun son of Jaswant, Arun @ Baniya and Priyanka on 24.07.2015. Subsequently, the co-accused Mukesh @ Kalia was arrested on 04.11.2016 and Ajit @ Jeetu was declared a proclaimed offender. Thereafter, a supplementary challan was submitted against Mukesh @ Kalia. The co-accused Arun son of Jaswant expired during the course of trial. Later on accused-Lalit, Arun @ Baniya, Priyanka and Mukesh @ Kalia were convicted by the Court of the Additional Sessions Judge, Gurugram on 23.04.2019 and were sentenced to undergo life imprisonment alongwith the

4. Meanwhile Ajit @ Jeetu, who had been declared a proclaimed offender was arrested in another FIR No.73 dated 14.03.2021 under Section 25 of the Arms Act at Police Station Special Cell, Lodhi Colony, Delhi. He was produced by the Delhi police in the Court of the Illaqa Magistrate, Gurugram on 26.06.2021. Production warrants were issued against him and he was arrested in the present case on 28.06.2021. On interrogation, his disclosure statement was recorded wherein he disclosed the name of Gopal @ Krishan Gopal and Anubhav (the present petitioner).

Based on the said statement, Gopal @ Krishan Gopal was arrested from Aligarh (U.P.) on 29.06.2021. The petitioner-Anubhav was produced by his family members at the Crime Unit, Sohna, Gurugram on 28.07.2021 on which date, he was arrested. His disclosure statement was recorded in which he stated that he had thrown the country-made pistol (katta) in the river near the village Chandhul, District Palwal. Section 201 IPC was added in the present case. No recovery was effected from him. He got demarcated the place of occurrence and the place where the accused persons hatched the conspiracy to kill the deceased. The call details of the mobile phone of the petitioner could not be obtained as the record was more than one year old. During the checking of the challan, Section 34 IPC was deleted and Section 27(1) of the Arms Act was added.

5. The supplementary challan against the petitioner, co-accused Gopal @ Krishan Gopal and Ajit @ Jeetu was submitted in the Court on 09.08.2021. Pursuant to the framing of charges, the case is now fixed for recording of prosecution evidence.

6. The learned counsel for the petitioner contends that there is absolutely no admissible evidence against the petitioner connecting him to

the trial against some of the accused stood completed in the year, 2019 and it was only, thereafter, when Ajit @ Jeetu was arrested, he named the present petitioner-Anubhav. It is contended that the investigating agency has collected absolutely no admissible evidence *prima facie* inculcating the petitioner in the occurrence. Since the petitioner is in custody since 28.07.2021 and only 01 out of the 30 witnesses has been examined, the further incarceration of the petitioner is not required and therefore, he ought to be granted the concession of bail.

7. The learned counsel for the State, on the other hand, contends that the name of the petitioner figured in the disclosure statement of his co-accused as also in his own confessional statement. As per his confessional statement, he is also one of the main assailants and he is stated to have thrown the weapon used in the offence into the river. He, therefore, contends that the petitioner does not deserve the concession of regular bail.

8. I have heard the learned counsel for the parties at length.

9. Admittedly, the petitioner is not named in the FIR. He is not named in the disclosure statements of the accused persons who had initially been arrested. It was only on conclusion of the trial against some of the accused that the name of the petitioner figured after the arrest of accused-Ajit @ Jeetu. The State has filed two status reports dated 18.04.2022 and 13.08.2022 giving the sequence of events and the material collected against the petitioner. It would certainly be a matter of adjudication during trial as to whether the evidence available against the petitioner is sufficient to warrant his conviction. Be that as it may, at this stage, since the petitioner is in custody since 28.07.2021 and only 01 of the 31 prosecution witnesses has been examined so far, the trial of the present case is not likely to be

petitioner is not required.

10. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner, namely, Anubhav Sharma is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

11. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present case(s).

12. In addition, the petitioner shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

August 31, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No