

218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7210-2020 (O&M)
Date of decision-16.03.2022

Bittu

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rakesh Lathwal, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

Ms. Neha Rana, Advocate for the complainant.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.357 dated 04.07.2018 registered under Section 302, 148, 149 and 120-B of Indian Penal Code, 1860 and Section 25 (Act No.54) of Arms Act, 1954 at Police Station City Jind, District Jind. The petitioner is in custody since his arrest on 28.07.2018.

The contents of the FIR as noticed by the learned Sessions Judge, Jind in order dated 10.01.2020 reads as under:-

“Brief facts of the prosecution case are that the present case was registered on the basis of statement made by complainant Surender Kumar son of Mani Ram, resident of village Rajthal now resident of House No.1300, Urban Estate, Jind wherein he stated that he was an agriculturist. He was 10th standard

pass. They were three brothers. His brother namely Bhupender @ Babal along with Ram Niwas son of Inder Singh, resident of village Biroli, now resident of Safidon Road, Jind and others were running Supreme Senior Secondary School, Safidon Road, Jind under Unique Education Society. Aforesaid Ram Niwas, his brother Ram Mehar, Satyadev, Sachin, Subham, Sanjay, Dara Singh, his brother Sunil Kapoor and their father Om Parkash Billu Pehlwan were having grudge against his brother with regard to above said school and property. Several Panchayats were convened in this regard in which he, Amit and other family members and relatives participated. Above said Ram Niwas harassed his brother Bhupender@ Babal with regard to school. They asked Ram Niwas and his accomplice not to harass Bhupender but they threatened that they would take possession of school and other property and they would not leave Bhupender alive. They had lodged a false case against Bhupender just to harass him as his brother Bhupender got lodged a case against Ram Niwas, Sanjay, Dara Singh and Sunil Kapoor as they had embezzled Rs.15,00,000/- of the school and due to this they were having grudge against this brother. In the evening of 03.07.2018, he received a telephonic message that some unknown person had shot his Bhupender near University situated at Rohtak Road Bye Pass, Jind. He reached the spot and found that his brother Bhupender was lying near his Maruti Swift Car bearing registration No.HR-31G-8865, stained with blood and he had died due to bullet injury. The complainant took the dead body of his brother in General Hospital, Jind. He suspected that Ram Niwas, his brother Ram Mehar, Satyadev, Sachin,

Subham, Sanjay, Dara Singh, Sunil Kapoor and their father Om Parkash hatched a criminal conspiracy and murdered his brother Bhupender.”

Learned counsel for the petitioner has argued that as per allegations in the FIR, victim Bhupender Singh, who was running a school had dispute with Ram Niwas and others, who had been threatening his brother, who was shot by some unidentified persons. He has argued that the complainant expressed suspicion upon Ram Niwas and others, and the petitioner is not named in the FIR who was implicated only on the basis of criminal conspiracy. Learned counsel has further argued that subsequently petitioner along with Vinay was implicated in this case and were sent to face trial. According to learned counsel the alleged weapon of offence was also recovered from his co-accused Vinay and the case of the prosecution is based upon circumstantial evidence, therefore, further custody of the petitioner may not be necessary. He prays for bail.

Learned State counsel assisted by ASI Rajesh as well as learned counsel for the complainant has opposed the prayer on the ground that the assailants were identified by examining the mobile phone of the victim wherein the co-accused Vinay had sent a message that he would be shot today i.e. on 03.07.2018. He has argued that the weapon of offence was recovered from co-accused Vinay and as per FSL the same was used in the alleged crime. Learned State counsel on instructions states that out of 49 prosecution witnesses, 25 witnesses have been examined.

After hearing the learned counsel for the parties, this Court finds that as the material witnesses have already been examined whereas the remaining witnesses are the police officials and at present there does not

appear to be any possibility of their being won over. Since the trial is likely to consume considerable time, therefore, further detention of the petitioner may not be necessary for any useful purpose. Thus, considering the custody period of the petitioner, he deserves the concession of the regular bail.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

16.03.2022

geeta

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No