

CRM-M-11232-2022

Date of Decision: 14.12.2022

RAHUL

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. S.S.Duhan, Advocate for the petitioner.
Mr. Dhruv Sihag, AAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

Present petition has been filed for grant of regular bail in case bearing FIR No. 614 dated 14.11.2017 under Sections 302, 34 IPC and Section 25 of Arms Act and Sections 3 & 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Civil Lines Rohtak, District Rohtak.

Precisely, the FIR has been registered on the basis of the statement of Balbir Singh alleging that on 13.11.2017, he received an information that his son has been shot in DLF Colony. Accordingly, he reached PGIMS, Rohtak and came to know that his son has died due to bullet injury. It was suspected that the petitioner had murdered the son on account of enmity.

It has been argued by learned counsel for the petitioner that the petitioner has been implicated on the basis of suspicion only, he is in custody for a period of 4 years, 9 months and 19 days. Though, he is involved in 2 other cases i.e. one under Section 323, 506 IPC read with Section 25 of Arms Act and another one under 25 of Arms Act but he is on

bail in both the cases. The co-accused Tarun Khurana has been released on bail.

On the contrary, the learned State counsel has opposed the bail application on the score that the licenced pistol has been recovered from the petitioner. The empty cartridge cases recovered from the spot and the bullet recovered from the body of the deceased during the course of post-mortem examination had matched with the licenced pistol recovered from the petitioner, as per the report of FSL. The earlier application of the petitioner for bail has been dismissed by a speaking order in terms of the order dated 02.03.2020. Out of 42, 15 witnesses have been examined so far.

It may be mentioned here that the name of the petitioner has been mentioned in the FIR on the basis of suspicion only. It is no doubt true that at the earlier instance, the bail application of the petitioner has been dismissed on the score that the ballistic report indicates his involvement in the instant case. It is significant to note that at the time of disposal of the earlier application the statements of 10 witnesses had been recorded. A period of about 2 years and 9 months has elapsed from the disposal of earlier bail application and during this period of time, the statements of only 5 more witnesses is stated to have been recorded. The significant delay in the disposal and slow pace of the trial provides sufficient change of circumstances to extend the concession of bail to the petitioner, particularly, keeping in view the fact that the petitioner is in custody for a period of 4 years, 9 months and 19 days. Furthermore, 17 more witnesses are required to be examined and conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making 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 fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

14.12.2022

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No