

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-12957-2021

Date of Decision: 15.7.2022

Sunil @ Kala

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

KARAMJIT SINGH, J.

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.40 dated 9.2.2020 registered for the offences punishable under Sections 302, 307, 34, 120-B, 216 IPC and Section 25 of Arms Act at Police Station Civil Lines, Hisar, District Hisar.

Counsel for the petitioner contends that the petitioner was not named in the FIR and that only allegations against the petitioner are that he supplied certain fire arms and ammunition to one of the main accused Ashok @ Shoki who along with two other persons fired fatal shots at Suraj Bhan which resulted in his death. He further contends that the petitioner is in custody since 28.8.2020 and that the trial is going on and it will take time for the trial to conclude. He further contended that similarly situated co-accused Kapil against whom there are allegations that he conducted *recce* and provided vital information regarding the presence of the deceased to

the main accused persons, has already been granted bail by Coordinate Bench of this Court vide order dated 24.2.2022 passed in CRM-M-9292-2021.

On the other hand, State counsel assisted by Mr. Davinder Arya, Advocate, counsel for the complainant submit that the petitioner is not entitled to the concession of bail at this stage when the trial is going on. State counsel further submits that there are serious allegations against the present petitioner that he supplied the fire arms and ammunition used by three shooters who killed Suraj Bhan at the time of the occurrence. State counsel as well as counsel for the complainant further submits that the petitioner is involved in number of other criminal cases whose detail has been given in the status report already filed by the State. They further submit that undoubtedly co-accused Kapil has been granted regular bail but the only allegations against Kapil are that he conducted *recce* and provided information to the shooters regarding the presence of the deceased and as such, the petitioner cannot claim parity with co-accused Kapil.

I have considered the submissions made by the counsel for the parties.

Admittedly, the petitioner was not named in the FIR which was registered on the statement of Tej Pal alleging that at the time of occurrence, Ashok @ Shoki, Yash and one another young man came on a motorcycle and fired shots at his brother Suraj Bhan who at that time was playing cards and the said shots hit Suraj Bhan and then the said three assailants fled away on the same motorcycle and injured Suraj Bhan was taken to the hospital where he was declared 'brought dead'. As per prosecution version, main accused Ashok @ Shoki was arrested and during the investigation, said

accused made disclosure that the weapons used in the crime were procured by him from the petitioner Sunil @ Kala. Consequently, the petitioner was arrested on 28.8.2020 and presently, he is lodged in judicial custody. After completion of investigation, the police has presented the challan and now the trial is going on but it will take time for the trial to conclude. Admittedly, co-accused Kapil against whom there are allegations that he conducted *recce* and gave vital information regarding location of the deceased to the shooters, has already been granted bail by the Coordinate Bench of this Court vide order dated 24.2.2022. It is not the case of the prosecution that the petitioner was the third unidentified shooter who shot at deceased Suraj Bhan at the time of the occurrence. Relevance of the disclosure statement made by co-accused Ashok @ Shoki against the present petitioner is to be considered by the trial Court at the relevant time. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

July 15, 2022

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No