

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12895-2022 (O&M)
Date of decision: 24.05.2022

Surender

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rakesh Nehra, Sr. Advocate with
Mr. Reetesh Kumar, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Lalit Kumar Narang, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.194 dated 29.05.2021 under Sections 302, 201, 34, 120-B IPC and Section 25 of Arms Act, registered at Police Station IMT Rohtak, District Rohtak.

Learned senior counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Ravinder, his elder brother Sukhbir, aged about 45 years, was suffering from paralysis and was disabled from one hand and one leg. It is further stated that 01 year ago, Lakha and Surender sons of Dayanand and Sukhbir and Leelu sons of Surender (petitioner)

entered into their house and attacked his brother Sukhbir and caused him injuries. It is further stated that his brother informed him on 28.05.2021 that Lakha and Surender sons of Dayanand and Sukhvir and Leelu sons of Surender (petitioner) pressurized him to compromise the case otherwise they will kill him. On the date of incident, sister-in-law of complainant, namely Sushil had seen that Sukhbir son of Surender was taking Sukhbir @ Raja with him in the street. Thereafter, he did not return and later on, his dead body was found near a school. It is asserted in the FIR that his brother Sukhbir was murdered by Lakha, Surender sons of Dayanand and Sukhbir and Leelu sons of Surender (petitioner), after hatching a conspiracy.

Learned senior counsel has argued that during the investigation, the police arrested all the accused persons and recorded their disclosure statements and thereafter, challan was presented. Learned senior counsel has referred to earlier FIR No.256 dated 18.09.2019 under Sections 323, 324, 34, 452, 506 IPC, registered at Police Station IMT Rohtak, which find mention contents of present FIR and submits that as per allegations in the said FIR, registered at the instance of deceased Sukhvir, on 17.09.2019, Sukhbir and Leelu sons of Surender (petitioner) entered their house and when he asked them, they caused him injuries on the pretext that if he again teases the sister of Sukhbir and Leelu, he will be further taught a lesson. It is further stated in the FIR that aforesaid two sons of the petitioner caused him injuries and thereafter, the petitioner also came there and took his sons with him and while leaving, both of them extended threat.

Learned senior counsel has further argued that after completion of investigation in FIR No.256, challan was presented only against sons of the petitioner, as he was found innocent and is not facing trial, therefore, allegations in the present FIR are yet to be proved, whether the petitioner extended any threat to the deceased to compromise the earlier FIR, in which his sons Sukhbir and Leelu are accused. It is also submitted that motive, if any, is attributed to sons of the petitioner and not to the petitioner and he is nominated in this FIR only with the aid of Section 120-B IPC that he was part of the conspiracy.

Learned senior counsel has next submitted that the petitioner is aged about 51 years; he is in custody for the last about 01 year; he is not involved in any other case and the case before the trial Court is fixed on 25.07.2022 for framing of charge and it will take some time in conclusion of the trial.

Status report by way of affidavit of Investigating Officer/SI Rattan Singh, Police Station IMT, Rohtak, in which, after verifying the facts of the FIR, it is stated that during the investigation, post-mortem of the deceased was conducted and Sukhbir and Suraj @ Lilu, two sons of the petitioner, Rakesh @ Lakha and Naveen @ Kacha were arrested and they recorded their disclosure statements and in pursuance to the disclosure statement of Suraj @ Lilu, a knife was recovered and after recording disclosure statement of co-accused Naveen @ Kacha, a piece of cloth was recovered and thereafter, place of occurrence was demarcated and challan was presented on 10.09.2021.

Learned counsel for the complainant has submitted that as per

police investigation, it has come that all the accused persons including the petitioner were extending threat to the deceased to compromise the aforesaid FIR No.256 and on that pretext, he has been murdered.

The fact that the petitioner is not facing trial in FIR No.256, could not be disputed by learned State counsel, as it is so stated at bar by learned senior counsel, because allegations in the said FIR were that after the injuries were caused by two sons of the petitioner, he came and tried to pacify and took them from there and even in the present FIR, except for the elements of conspiracy, there is no direct evidence against the petitioner and the motive is attributed towards his sons.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

24.05.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No