

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

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CRM-M-16215-2022

Date of Decision: 28.04.2022

MANOJ KUMAR @ MANISH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Vivek Goyal, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 by the petitioner for seeking concession of regular bail in case bearing FIR No. 321 dated 02.12.2019 under Sections 302, 34 and 120-B of the Indian Penal Code and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Cheeka, District Kaithal.

2. Learned counsel appearing on behalf of the petitioner submits that the FIR in instant case has been registered at the instance of Raj Kumar @ Raju pertaining to the death of Prince. He submits that FIR was registered as a case of honour killing as the deceased had solemnized marriage with Sunita to the displeasure of her family. He submits that his brother was shot dead. In the initial statement, the complainant had named Balram, Johny and Gurdeep. Eventually, a supplementary statement was recorded on 03.12.2019 wherein he also named the petitioner. It is submitted that the petitioner is in custody since 06.12.2019 and that a country made pistol of .32 bore and 7 live cartridges were recovered from

the petitioner during the course of investigation. It is however pointed out that as per the FSL report, the bullet recovered from the person of the deceased matched with the weapon recovered from the other co-accused, Balram. The said weapon is not stated to have been used in the said incident. He submits that as per the FSL report, the weapon in question cannot be linked to the commission of the offence and the gun fire shot is from the pistol recovered from co-accused Balram. He has further relied upon the statements of the prosecution witnesses who have turned hostile including the statement of the complainant Raj Kumar. He thus contends that the prosecution witnesses have not supported the case of the prosecution and as such the link evidence associating the petitioner with the commission of the offence does not exist. He further points out that the co-accused Gurdeep has already been granted concession of regular bail by this Court vide order dated 28.01.2022 passed in CRM-M-43544-2021 and identically placed co-accused Parveen was granted bail vide order dated 06.04.2022 in CRM-M-8270 of 2022.

3. Mr. Ashish Yadav, Addl. A.G., Haryana controverts the submissions advanced on behalf of the petitioner and contends that recovery of a country made pistol has been effected from the petitioner. He however could not dispute the fact that there is no link evidence to associate any injury allegedly caused to the deceased on the basis of such country made pistol. He also could not controvert the fact that out of 30 witnesses cited by the prosecution, only 10 witnesses have been examined so far and that the material witnesses examined by the prosecution have not supported the case of the prosecution and have turned hostile. The period of custody is also not

a subject matter of dispute.

4. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

5. Taking into consideration, the fact that the witnesses of the prosecution turned hostile and did not support the case against the petitioner; the recovery in question is currently not linked to any injury caused to the deceased and that the said murder weapon had been stated to be recovered from the co-accused Balram; the period of custody undergone since 06.12.2019 as also the stage of trial along with orders granting bail to co-accused Gurdeep and Parveen, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

6. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the trial Court/Duty Judge, Kaithal.

7. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

8. The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the Trial Court shall decide the case on the basis of material available on record.

(VINOD S. BHARDWAJ)
JUDGE

28.04.2022
rajender

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No