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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14897-2020 (O&M)

Date of Decision: 06.04.2022

Dayanand

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sukesh K. Jindal, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Rahul Jaswal, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.464 dated 27.07.2018, under Sections 148, 149, 195-A,216,302,506 and 120-B IPC and Section 25 of Arms Act registered at Police Station Samalkha.

As per the allegations contained in the FIR which was lodged on the basis of complaint made by one Satbir that he works as a Sewadar in Shyam Baba Temple. One Sompal @ Lila used to come to the temple on daily basis for walking. On 26.07.2018 at about 10.00 P.M. when he from his house went to the temple for walking and when he reached near the railing of the temple, then he saw two persons namely, Pardeep son of Dharampal Gurjar and Anil, both residents of Rasulpur Shamli who were

the members of the gang of Rishi came from the garden side having pistols/Katta/Mouser/Revolver and then four persons of their village namely, Rishi son of Shyam Lal Gurjar against whom about 2 dozen of cases have been lodged, Rocky and Sandeep @ Thakur were seen giving threats by pointing out their pistols and he got frightened and by hiding himself was observing their activities because the aforesaid Rishi Gurjar and his companions had murdered the son of his real uncle namely Ramesh in the year 2005 due to which he was convicted and later on he came out on parole. After that the aforesaid Rishi, Anil and Pardeep went inside the temple and 3 persons namely, Rocky, Sandeep and Parveen stood outside with their weapons and after sometime, while watching them, Sombir Pujari and after him his nephew Sompal @ Leela reached near the gate of temple in order to enter the temple by keeping the mobile on his ear, then the aforesaid 6 persons namely, Rishi, Anil, Pardeep, Rocky, Sandeep and Parveen who were having Pistol/Revolver/Mouser/Katta in their hands and they were seen having minor arguments between them and during that time the aforesaid Rishi Gurjar with intention to kill Sompal @ Leela directly fired upon him with his weapon in his hand and due to the bullet shot the aforesaid Sompal fell down and then Rishi also fired 3-4 more bullet shots upon Sompal while he was lying and then one more bullet shot was fired upon Sompal by Pardeep and thereafter they went away from there. Thereafter, the aforesaid Sompal died due to bullet injuries. CCTV cameras were also installed in Shyam Baba Temple and the entire incident was captured in CCTV cameras.

Learned counsel for the petitioner has submitted that the petitioner is in custody from 21.09.2018 and his name was not mentioned

in the FIR but he was nominated on the basis of disclosure statement made by the co-accused namely Rishi Gurjar. He further submitted that the complainant has since been examined by the learned trial Court and, therefore, the petitioner may be considered for the grant of regular bail. He further submitted that the petitioner is not involved in any other case and has clean antecedents.

On the other hand, Mr. Naveen Singh Panwar, learned DAG, Haryana has submitted that it is a case where the complainant in his examination-in-chief before the learned trial Court had specifically stated that the petitioner had fired upon the deceased and thereafter, he stated that instead of Sandeep it was the petitioner who had fired. It was submitted by the learned counsel for the State that the aforesaid Rishi Gurjar is already facing 2 dozen cases and in the present case a gang of number of persons had come alongwith dangerous weapons and killed the deceased and the petitioner was also one of them. He further submitted that the argument raised by the learned counsel for the petitioner that the petitioner was nominated on the basis of disclosure statement would not sustain after the complainant himself has deposed before the learned trial Court. He further submitted that looking at the gravity of the allegations and also the antecedents of the other co-accused who were also the part of the gang, there is a serious apprehension that in case the petitioner is released on bail, then he may abscond or he may even influence the witnesses. He further submitted that although the petitioner himself is not involved in any other case but that itself would not become a ground for grant of bail to the petitioner particularly considering the high magnitude and gravity of the present case and has therefore prayed for the dismissal of the present

petition.

I have heard the learned counsel for the parties.

Although the petitioner is in custody from 21.09.2018 but it is a case where during the course of trial the complainant has specifically deposed that it is the petitioner who had also fired upon the deceased alongwith the other person namely Rishi Gurjar and against the aforesaid Rishi Gurjar about 2 dozen cases are pending. During the course of arguments the learned State counsel has also stated that a katta was recovered from the possession of the petitioner. The apprehension expressed by the learned State counsel that in case the petitioner is released on bail, then he may abscond or he may influence and threaten the witnesses cannot be ignored. Therefore, considering the gravity of the allegations in the present case, this Court does not deem it fit and proper to grant bail to the petitioner.

Consequently, finding no merit in the present petition, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

06.04.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

: Yes/No
: Yes/No