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

**CRM-M No.19711 of 2022
Date of Decision: 22.07.2022**

Ritik

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Chanakya Pandit, Advocate
for the petitioner.

Mr. Pankaj Mulwani, D.A.G., Haryana.

Mr. Ashwani Kumar Antil, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of regular bail in his second attempt under Section 439 Cr.P.C in case bearing FIR No.141 dated 20.06.2020, registered under Sections 302, 120-B, 34 IPC and Sections 25, 27 of the Arms Act at Police Station HSIIDC, Barhi, District Sonapat. Earlier CRM-M No.19943 of 2021 was got dismissed as withdrawn vide order dated 14.07.2021.

[2]. The FIR was registered at the instance of Ravinder Kumar with the allegations that he runs a general merchant

shop. The complainant had one son namely Kuldeep, who was working as Welder in a Company. His son went from his house to the Company for his duty on his motorcycle. After sometime, the complainant received an information that his son was stabbed with a knife at Gate No.2, HSIIDC Barhi. On receiving the information, the complainant went to the spot and found his son in a pool of blood. He found wounds on the right side of stomach of his son. He tied a cloth around the wounds and after arranging a vehicle brought his son to the Hospital. On the way to the Hospital, his son told him names of Sachin @ Tinku and Atul both sons of Ashok Tyagi, resident of Barhi to be the persons, who had inflicted injuries upon him. On reaching Hospital, the Doctor declared his son to be brought dead.

[3]. The FIR was registered against Sachin @ Tinku and Atul. After three days of the occurrence, the complainant made a supplementary statement involving the petitioner in the crime.

[4]. The Police recorded the statement of the complainant on 22.06.2020 wherein the complainant stated that the petitioner has also been involved in the crime. The complainant also produced the copies of some documents pertaining to the court case of the disputed plot before the Police. During course of investigation, disclosure statement of the petitioner was recorded and in pursuance of the said statement, he got

recovered knife.

[5]. As per post mortem report of deceased Kuldeep, six sharp stab injuries have been found on the abdominal part and on the chest.

[6]. During course of investigation Sachin @ Tinku has been found to be innocent. Now he has been summoned under Section 319 Cr.P.C. and has been granted anticipatory bail by the High Court vide order dated 20.01.2022 passed in CRM-M No.2147 of 2022.

[7]. Learned counsel for the petitioner submits that the act of Sachin @ Tinku has been illegally fastened upon the petitioner. The recovery has been planted. There is no material disclosed by the complainant on the basis of which he made a supplementary statement after three days of the occurrence.

[8]. Learned counsel further submits that infact recovery has been planted upon the petitioner thereby exonerating Sachin @ Tinku, who has now been summoned under Section 319 Cr.P.C and is on anticipatory bail. Petitioner is in custody since 22.06.2020. The basis on which Sachin @ Tinku has been exonerated is the statements of his friends and those statements cannot be read against the petitioner.

[9]. Learned counsel further submits that the police has

investigated the case in a very tainted manner. There is no material against the petitioner except the disclosure statement with alleged recovery. As of now only one witness has been examined out of total 21 prosecution witnesses. The complainant has been examined as PW-1 and in his statement as PW-1, also the basis for making supplementary statement after three days of the occurrence has not come forth.

[10]. Per contra, learned State counsel duly assisted by learned counsel for the complainant opposed the bail on the ground that in pursuance of disclosure statement, a knife has been recovered from the petitioner. As per FSL report, the knife was found to be stained with blood of human origin having blood group 'A' and the same blood group was found on the clothes of the deceased as well the earth lifted from the spot.

[11]. Learned State counsel further submits that even though the custody of the petitioner is more than 2 years as of now, but the complainant has been examined in chief and now 14.10.2022 is the next date before the trial Court.

[12]. On 11.07.2022, learned State counsel sought time to apprise this Court about the material on the basis of which the supplementary statement has been made by the complainant involving the petitioner after three days of the occurrence.

[13]. In pursuance thereof status report by way of affidavit of Satish Kumar, HPS, Deputy Superintendent of Police, Sonipat has been filed. The status report is silent to that extent. Petitioner was arrested on 22.06.2020. Call details have been collected and on the basis of FSL report, the complicity qua the petitioner has been alleged. The material/information on the basis of which the supplementary statement has been made by the complainant is conspicuously missing even in the status report.

[14]. Having heard learned counsel for the parties, on *prima facie* consideration, I find that petitioner has not been named in the FIR. His name came to be disclosed by the complainant after three days of the occurrence. The statement of the complainant in examination-in-chief as well as the supplementary statement made before the police on 22.06.2020 do not disclose the basis/material in implicating the petitioner after three days of the occurrence. In the FIR, the complainant on the basis of disclosure by the then injured son named Sachin @ Tinku and Atul only. During investigation, Sachin @ Tinku has been left as innocent.

[15]. At this stage without meaning anything on the merits of the case, I find that the complicity of the petitioner would remain debatable and the same shall be appreciated by the trial on the

basis of evidence to be led by the parties during trial. Petitioner is in custody since 22.06.2020. Only one witness has been partly examined so far. The trial of the case shall take considerable time in its culmination.

[16]. In view of above, I deem it appropriate to enlarge the petitioner on regular bail. This petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

[17]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

July 22, 2022	(RAJ MOHAN SINGH)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No