

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21594-2022 (O&M)
Date of decision: 24.05.2022

Amit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. I.S. Pabla, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.76 dated 03.02.2021 under Sections 302, 473, 120-B, 34 IPC and Section 25/54/59 of Arms Act, registered at Police Station Krishna Gate, Thanesar, Kurukshetra, District Kurukshetra.

Learned counsel for the petitioner relies upon the order dated 28.04.2022 passed in CRM-M-49405-2021, vide which co-accused Ashish @ Aashish @ Raman has been granted the concession of regular bail, by passing the following order: -

“...Learned counsel for the petitioner submits that as per

allegations in the FIR, registered at the instance of complainant Sahil Sharma, it is stated that he is having a brother namely Ravi, who is aged about 28 years and is unmarried. About 02 years ago, his brother had a dispute in the village and he was sent to jail and remained confined in jail for about 02 years and was released on bail on 12.01.2021. On 03.02.2021, he along with one Tanu Saini was going to Kurkshetra in a Mahindra Bolero vehicle bearing registration number HR-99-YR(P)-1735 and 04/05 boys fired shots on Ravi. Ravi was later on taken to hospital for treatment, where the complainant, on receiving the information, also reached and found that many people including said Tanu Saini were present there. He inquired and came to know that 04/05 young boys, who came in a white color Ritz car bearing registration number HR-02X-7715, fired shots at Ravi, due to which he fell down and on seeing the crowd, the accused persons fled away from the spot. In the FIR, the complainant suspected that either Bhupi Rana, who is lodged in jail, or Harry Saini of Sector 5 or Rahul Jogi or Saurabh, with whom they had dispute, has committed the murder of Ravi due to enmity.

Learned counsel further submits that the petitioner was not named in the FIR and as the complainant has raised suspicion on a number of persons, with whom Ravi was having enmity, the petitioner has falsely been implicated in this case only on the basis

of the disclosure of co-accused Rahul.

Learned counsel further submits that co-accused Rahul, at the first instance, made a disclosure on 05.01.2021 stating that the petitioner has given the location of the deceased on the mobile phone of Rahul i.e. 72062-69211, however, this mobile was never recovered by the police and again another mobile phone was given, which was also not recovered, rather co-accused Rahul got recovered another mobile i.e. 88140-00932, which was in fact in his name only.

Learned counsel further submits that the petitioner was arrested on the disclosure of aforesaid Rahul that the petitioner has done recce and given information of the movement of the deceased.

Learned counsel further submits that it will be a matter of evidence, to be recorded during trial, whether the mobile phones, which are disclosed by co-accused Rahul were in fact recovered and the mobile phone from which the information was allegedly given by the petitioner to co-accused Rahul belongs to the petitioner or not.

It is further submitted that the petitioner is the first offender; he is not involved in any other case and as on today, he is in judicial custody for the last 01 year, 02 months and 22 days and conclusion of trial is likely to take some time as out of 31

prosecution witnesses, only 02 witnesses have been examined so far.

Reply, by way of the affidavit of the DSP, Hq., Kurukshetra has been filed in Court today. In reply, after verifying the contents of the FIR and investigation conducted by the police, it is stated that as per call details record, there were multiple calls between the petitioner and co-accused Rahul from his mobile number 74978-88611, which was used by him in the incident, however, in the reply, the mobile which was used by the petitioner is not mentioned.

Learned state counsel further submits that the allegations against the petitioner are that he has done recce of the movements of Ravi and has shared it with co-accused Rahul...”

For the sake of brevity, facts are not reproduced again.

Learned counsel submits that the petitioner was not named in the FIR and his name surfaced only after co-accused Rahul was arrested and he made a disclosure statement. Learned counsel has referred to operative part of the statement, which reads as under: -

“Thereafter, I called Amit R/o Sakoti through phone that I need one “Desi” pistol. Amit said to me that right now I am at Ambala, I told Amit that Saurabh is already in U.P. for pistol. Then amit told me to take one “Desi” pistol and 10 cartridges from Qadir at Meerat, then I called Saurabh and informed him of taking pistol

from Quadir at Meerat, then Saurabh purchased “Desi” pistol and 10 cartridges in Rs.45,000/-.

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xxx

xxx

Then I called Amit R/o Sakoti and asked him to provide 2 person, who can help us in killing Ravi. Then Amit said to take two person from Sakoti. Then me and Saurabh around 10/15 days ago, went to Sakoti and bring two person namely Raju @ Sanjay s/o Nand Kishore and Sandeep @ Sanjeev s/o Rakesh Singh r/o Muzarafnagar, we kept them in our drawing room.”

Learned counsel has further submitted that as per disclosure statement of co-accused Rahul, the petitioner was not present at the spot and when co-accused Rahul allegedly asked him to provide a pistol, the petitioner told him to contact a person Qadir at Meerut and later on, he again told to go to a place to pick up two co-accused Raju @ Sanjay and Sandeep @ Sanjeev. It is also submitted that there is no call details between the petitioner’s mobile No.82798-03869 and co-accused Rahul’s mobile No.88140-00932.

Learned counsel has also submitted that the petitioner is having clean antecedents; he is in custody for the last 01 year, 03 months and 15 days; he is not involved in any other case and except for the disclosure statement, nothing has come on record, after his arrest and no recovery was effected from him. It is next submitted that challan stands presented and it will take some time in conclusion of the trial.

Learned State counsel, on the basis of custody certificate, filed in

the Court today, has not disputed the factual position.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that primary allegation against the petitioner is of conspiracy under Section 120-B IPC, as it is not case of the prosecution that the petitioner was present at the spot, where the occurrence took place and only evidence against him is disclosure statement of co-accused Rahul and in pursuance thereof, when he was arrested, no recovery was effected from him, 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/Illaqa Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

24.05.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No