

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CRM-M-24951-2021

Date of decision: 10.03.2022

DEEPAK

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Argued by : Mr. Vinod Ghai, Senior Advocate
with Ms. Kanika Ahuja, Advocate
for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana
for the respondent-State.

SANT PARKASH, J.

(The case has been taken up for hearing through video conferencing.)

Prayer in this petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner, in case, FIR No. 200 dated 03.08.2019 registered under Sections 302, 449, 404 of the Indian Penal Code, 1860 and Section 25 of the Arms Act at Police Station Badli, District Jhajjar.

The present FIR has been lodged on complaint made by Sombir who alleged that his mother Meena aged around 50 years lives at their house in village Kheri Asra and for the past four months his sister Diksha, who is married to the present petitioner is staying with his mother in their house. On 02.08.2019, he made a telephonic call to his mother for asking about her well being but the mobile phone was switched off and then at about 6.00 p.m. he asked his neighbour Harsh

to go to his home and make her mother talk with him(complainant) on mobile phone. After some time, Harsh replied that his mother Meena and sister Diksha are lying dead and there is blood at the spot. On this information, he along with his relatives reached there and found his mother Meena and sister Diksha lying dead and there were gun shot injuries on their dead bodies and empty shells of bullets were lying there along with blood stains. The complainant alleged that some unknown person had killed her mother and sister by entering their house. FIR in the case was registered. Statement of the complainant was recorded wherein the complainant doubted upon the petitioner for committing murder of his mother Meena Devi and sister Rambhateri @ Diksha, as there were some matrimonial issues between his deceased sister Diksha and the petitioner-Deepak. His sister was staying at her parental home for the past four months. During investigation, the present petitioner was arrested on 05.08.2019 wherein he suffered his disclosure statement. The petitioner got recovered weapon (pistol) with 5 live cartridges and mobile phone of deceased Meena Devi from Almirah situated on first floor of his house.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Rahul Dev, HPS, Deputy Superintendent of Police, City Jhajjar, District Jhajjar.

I have heard learned Counsel for the parties and gone through the case file.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated. There is no evidence to connect

the petitioner with the alleged crime. The material witnesses have turned hostile and does not support the case of the prosecution. The recovery of the country made pistol has been shown to be made from the house of the petitioner whereas the same was found at the spot itself. The entire case is based upon circumstantial evidence and the chain of circumstances is not complete to connect the petitioner with the alleged occurrence. There was no motive for the petitioner to commit the present crime as there was no dispute between the petitioner and his wife Diksha. Challan has already been presented. There are 22 prosecution witnesses. The trial in the present case is likely to take long time. No recovery is to be effected from the petitioner. The petitioner is in custody since 05.08.2019. No useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be enlarged on regular bail.

Opposing the contentions tooth and nail, learned State Counsel has submitted that as per the FSL report the bullets recovered from the dead bodies have been found to be fired from the Firearm recovered from the petitioner. The present case is totally based upon the medical evidence as well as recovery effected from the petitioner. There is sufficient evidence against the present petitioner to connect him with the present crime. The petitioner, if granted bail may influence the other prime witnesses of the case and misuse the concession of the bail. In view of the nature of accusation, gravity of the offences and other medical evidence, the petitioner does not deserve grant of regular bail.

Therefore, the petition may be dismissed.

Learned Counsel for the petitioner has tried to make out the case for grant of regular bail to the petitioner by submitting that the recovery of the weapon(pistol) and mobile phone of deceased Meena Devi from the petitioner is doubtful. As per the prosecution version, recovery of pistol with 5 live cartridges and mobile phone was effected from Almirah situated on first floor of residential house of the accused at the instance of his disclosure statement whereas, the material witnesses PW-5 Naveen, who is husband of Urmila, daughter of deceased Meena Devi and PW-6 Harsh, neighbour of the deceased have turned hostile and did not support the prosecution version. PW-5 Naveen and PW-6 Harsh (Annexure P-10 and P-11) in their statements before the trial Court have deposed that they have seen a country made pistol and a mobile phone, at the spot. Even the complainant Sombir on examination as PW-4 had deposed that he had seen the mobile at the spot. The aforesaid deposition of the witnesses has contradicted the version of prosecution that the recovery of pistol and mobile phone of the deceased was effected from the almirah of the petitioner in pursuant to his disclosure statement.

Having considered the facts and circumstances of the case, the material witnesses turning hostile and not supporting the case of the prosecution, the alleged recovery of the weapon used in the offence being disputed, challan in the matter has already been filed, only 9 witnesses out of 22 witnesses have been examined, custodial interrogation of the petitioner not required and the fact that the trial is likely to take long time but without expressing any opinion on the

merits of case, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10.03.2022
kavneet singh

(SANT PARKASH)
JUDGE

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