

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-26234-2021
Date of decision : 04.05.2022

Jatin alias Jittu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Gautam Dutt, Advocate and
Mr.Forhat Kohli, Advocate
for the petitioner.

Mr.Munish Sharma, AAG, Haryana.

Mr.Paras Jagga, Advocate for the complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.45 dated 24.02.2020 registered under Sections 307, 427, 506, 34 IPC and Sections 25/54 of the Arms Act, 1959 (Sections 148, 149, 341, 302, 120-B IPC added later on) at Police Station B.P.T.P. Faridabad, District Faridabad.

Learned counsel for the petitioner has submitted that in the present case as per the FIR, three persons have been named, i.e. Rajender, Kulbhushan alias Kullu and Rahul, who were all stated to have been armed with pistols in their hands and had fired shots on Anil alias Anni and Dharmender alias Bhoora. It has been submitted that the petitioner is not named in the FIR. It has further been submitted that Anil alias Anni had died on 06.03.2020 and on 11.05.2020, the challan was presented against

and not against the petitioner. It has further been submitted that the petitioner is sought to be implicated on the basis of disclosure statement of Kulbhushan alias Kullu which was recorded on 21.10.2020, after the said Kulbhushan alias Kullu was arrested and as per the said disclosure statement, it was stated that the present petitioner was also made to sit in the car which was being driven by Kulbhushan alias Kullu and in which they had gone to the place of occurrence. It has also been submitted that even as per the said statement, no overt act much less firing from the pistol has been attributed to the present petitioner. It has been stated that statement of Vinod, brother of the deceased, was also recorded on 04.03.2020 and even as per the said statement of Vinod, there is no specific attribution to the present petitioner. It has also been stated that no recovery has been made from the present petitioner and the petitioner has been in custody since 21.11.2020 and there are 44 prosecution witnesses and none of them have been examined. It has been submitted that the petitioner is not involved in any other case and the co-accused of the petitioner namely Rajender Singh @ Robert Nagar, who was named in the supplementary statement made by the complainant on 04.03.2020, has already been granted the benefit of regular bail by a coordinate Bench of this Court vide order dated 28.09.2021, passed in CRM-M-26197-2021.

Learned State counsel as well as learned counsel for the complainant have opposed the present petition for regular bail and have submitted that the petitioner is also part of the conspiracy, in furtherance of which, Anil alias Anni had died and Dharmender alias Bhoora had suffered grievous injuries and as per the statement of Vinod as well as Kulbhushan alias Kullu, the present petitioner was also present in the car in which the

accused persons had gone at the place of occurrence. The other facts have not been disputed.

This Court has heard learned counsel for the parties and has perused the paper book.

In the FIR, three persons have been specifically named, i.e. Rajender, Rahul and Kulbhushan alias Kullu who were stated to have been armed with pistols in their hands and have also allegedly fired shots on Anil alias Anni and Dharmender alias Bhoora. The petitioner was not named in the FIR. The petitioner has been implicated in the case on the basis of the statement made by Vinod brother of the deceased on 04.03.2020, as well as, on the basis of disclosure statement made by Kulbhushan alias Kullu on 21.10.2020 and as per both these statements, no specific injury has been attributed to the present petitioner. As per the version given by Kulbhushan alias Kullu, which was recorded on 21.10.2020, it has been stated that the petitioner was also made to sit in the car along with the other accused persons while they were going to the alleged place of occurrence. Thus, as per the prosecution case, neither any specific injury has been attributed to the present petitioner nor the petitioner was stated to have been armed with any weapon and no recovery has been effected from the present petitioner. The petitioner is not involved in any other case. The petitioner has been in custody since 21.11.2020 and there are 44 prosecution witnesses and none of them have been examined, thus, the trial is likely to take time. The co-accused person of the petitioner, Rajender Singh @ Robert Nagar has already been granted the concession of regular bail vide order dated 28.09.2021 passed in CRM-M-26197-2021 and the name of Rajender Singh @ Robert Nagar has surfaced in the supplementary statement of the

complainant recorded on 04.03.2020.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

May 04, 2022
Davinder Kumar

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