

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

Criminal Misc. No.M-27429 of 2021(O&M)

Date of Decision: March 23, 2022

Anurodh alias Bunty

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Prateek Rathee, Advocate for the petitioner.

Mr.Saurabh Girdhar, AAG, Haryana.

Mr.Hemant Saini, Advocate for the complainant.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of bail in case FIR No.512 dated 28.12.2020 under Sections 302, 109, 201 of the Indian Penal Code and Section 25 of the Arms Act, Police Station Civil Lines, Hisar.

The FIR was lodged on the statement of one Ankit Kumar. He stated that he was in the business of import and export. On 28.12.2020 at about 4.30 PM, his brother Rajesh along with his friend Pawan Rana was sitting at his Society office, Prem Nagar, Hisar. The complainant had gone there for some work. Dhananjay @ Jugnu came there in a white Brezza Car. After getting down from the Car, he fired many shots at Rajesh from the Pistol which he was holding in his hand. The shots hit Rajesh on his head and body. The complainant shouted and ran to rescue his brother.

Dhananjay @ Jugnu fled away from the spot along with his weapon in the

Brezza car. The complainant took his brother Rajesh to CMC Hospital, Hisar. From there he was taken to Government Hospital, Hisar, where, he was declared dead. It was stated that for some unknown reasons his brother Rajesh had been shot dead by Dhananjay.

It is the case of the prosecution that there were three injuries on the person of deceased Rajesh. During spot inspection blood stained earth and three empty cartridges were lifted from the spot. On 31.12.2020 Dhananjay @ Jugnu was arrested. His disclosure statements were recorded three times. He gave a different version each time. In his third disclosure statement, he stated that he along with his friend Anurodh @ Bunt (petitioner) was in the business of finance. Many people did not return his money, causing him acute financial distress. The petitioner told him that if Rajesh @ Kocher was killed, it would spread panic among the people of Hisar and all would return the money due to this fear. Dhananjay stated that on the instigation of the petitioner he shot dead Rajesh. He also disclosed that about five months back the petitioner had provided him a pistol for Rs.65,000/-. Petitioner had also given him 10 cartridges of .32 bore. Dhananjay disclosed that 10 cartridges of .32 bore were purchased by him from his friend Surender Punia. On the disclosure of Dhananjay one Mobile Phone and Brezza car No.HR-08-S-3300 were got recovered. However, the pistol, the cartridges and clothes worn by him at the time of the incident could not be recovered. On 04.01.2021 four cartridges of .32 bore were got recovered by Dhananjay. On 08.01.2021 ten cartridges of .32 bore were got recovered by him.

The petitioner was arrested on 08.01.2021. At the time of his

from his possession. In his disclosure statement, he disclosed that he along with his friend Dhananjay was in the business of finance. As people were not returning the money, they faced acute financial instability. He asked Dhananjay that if Rajesh is killed, then all who were not returning money would return the money due to fear. He also disclosed that he had given a pistol to Dhananjay for Rs.65,000/- to kill Rajesh @ Kocher.

Ld. counsel for the petitioner has argued that even as per the allegations in the FIR, co-accused Dhananjay had come all alone in the Brezza car, fired the shots at Rajesh and sped away in the Brezza car along with the pistol. The petitioner has been implicated only on the basis of the third disclosure statement of co-accused Dhananjay. In the first disclosure statement recorded on 02.01.2021, Dhananjay had stated that he was friends with Rajesh @ Kocher. He was also friendly with a girl namely Bhavya Sharma. Rajesh also used to talk to her. There had been an altercation with Rajesh in the year 2004. Rajesh and his friends had called him to Madhuban Park where Rajesh had beaten him. For many years thereafter, he did not speak to Rajesh. In 2011-2012 he started talking to Rajesh. He was involved in the business of finance. Number of people were to return him money, but did not do so. Rajesh promised to help and stated that whatever money was returned would be divided equally between him and Rajesh. He had to take 49 lacs from Sandeep. He asked Rajesh to come along with him. About 15 days back, Rajesh gave him an illegal pistol with 6 bullets. He decided that he would kill Rajesh in the office of Sandeep. He would get his money back from Sandeep and Sandeep would be accused of murdering Rajesh. On 28.12.2020 he took the Brezza car number HR-

come at the agreed place. At 3.00 PM, Rajesh came near the office of Vikram Bishnoi. He along with Pawan Rana and Rajesh was sitting in the street. He asked Rajesh to go to Sandeep, but Rajesh refused. Instead, he asked for the return of his pistol or Rs.45,000/-. He stated that he would give back the pistol. He went back to the car, took out the pistol from the car and shot at Rajesh.

In the second disclosure statement, he gave a different version. It was in the third disclosure statement that he implicated the petitioner.

Mr.Rathee has also referred to the deposition of PW5 Inspector Balwant Singh, the Investigating Officer. In his cross-examination he stated that as per the challan the only evidence against the petitioner is the confessional statement of co-accused Dhananjay. The petitioner has not been named in the FIR or in any statement u/s 161 Cr. P. C. of the eye-witnesses. He has also referred to the deposition of PW6 Pawan Kumar, who stated that on 28.12.2020 Rajesh had come to meet him in his office in Prem Nagar Hisar. Pawan Kumar also deposed about co-accused Dhananjay coming in a Brezza car and firing at Rajesh. No mention is made of the petitioner accompanying co-accused Dhananjay in the Brezza car. Similarly, in the deposition of PW7 Ankit, brother of the deceased also, the only mention is of Dhananjay coming in a Brezza car and firing at the deceased.

It has been contended on behalf of the State that the petitioner is involved in as many as ten criminal cases. However, Mr.Rathee, Ld. counsel for the petitioner states that he has been convicted only in one case under Section 148, 302 and 307 IPC read with Section 149 IPC and

sentenced to undergo imprisonment for life. His Criminal Appeal No.CRA-

D-838-DB of 2018 there-against is pending and his sentence has been suspended.

Thus, it appears that the petitioner is being implicated in the present case only on the disclosure statement of co-accused. As per the deposition of eye-witnesses PW6 Pawan Kumar and PW7 Ankit only Dhananjay had come in a Brezza car, shot at Rajesh with a pistol and escaped in the car. One country-made pistol .32 bore and two live cartridges were recovered from the petitioner. This pistol has not be found to be used in the crime.

In view of the above, without expressing any opinion on the merits of the case, this petition is allowed. The petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

March 23, 2022

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No