

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223

CRM-M-32668 of 2021
Date of decision:09.05.2022

Bhupender alias Bhupi

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Shokeen Singh Verma, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.47 dated 22.03.2018 registered under Sections 147, 148, 149, 364 of Indian Penal Code, 1860 and Section 25 of Arms Act, 1959, however, Sections 302, 201 IPC were added later on, at Police Station Loharu, District Bhiwani (Annexure P-1).

As per the case of the prosecution, FIR (Annexure P-1) has been registered on the statement of Raj Kumar on the allegation that his son-Virender has been murdered by Goreya @ Kuldeep and Parvinder alias Foji on 21.03.2018 by gunshot.

Counsel for the petitioner contends that the petitioner is not named in the FIR and is not accused of murder. He submits that the role

ascribed to the petitioner is that he had supplied a pistol and 04 live cartridges to co-accused, Parvinder @ Foji, who committed the murder and handed over the weapon to the petitioner, who passed it on for safe keeping to Deepak alias Deepa from whom recovery was effected. Counsel submits that first petition (CRM-M-17816 of 2020), preferred by the petitioner was dismissed by this Court, vide order dated 30.09.2020 (Annexure A-1) and thereafter, the complainant has been examined and in his testimony, Annexure P-2, he identified accused Goreya @ Kuldeep, but could not identify any other person. By referring to the reply filed by the State by way of an affidavit of Deputy Superintendent of Police, Loharu, District Bhiwani, Haryana, he submits that petitioner was never declared as Proclaimed Offender and FIR No.275 dated 18.06.2018 registered under Section 174-A, IPC was not registered against him as admitted by the State in its reply. Counsel submits that as the petitioner has been in custody since 23.04.2018, he is no longer required for custodial interrogation and deserves to be enlarged on bail.

Per contra, State counsel upon instructions from PSI Vishesh, State counsel has opposed the petition and has submitted that the petitioner has been charge-sheeted in a case of homicide and his criminal past does not warrant his release on bail. She has referred to the reply filed by the State by way of affidavit of Deputy Superintendent of Police, Loharu, District Bhiwani, which is taken on record.

Having considered the afore-noticed facts and circumstances, this Court is of the view that complicity of the petitioner in the crime would

remain controvertible and he would be entitled to be released on bail as he has spent more than 04 years in custody, the complainant, who is the most material witness stands examined and the trial is not likely to conclude in near future.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on furnishing **heavy bail/surety bonds** to the satisfaction of the Trial Court/Duty Magistrate concerned.

While being released on bail, the petitioner shall furnish an undertaking to the effect that henceforth, he will not get involved in any criminal activity. In case, he violates the undertaking, the State will be at liberty to seek cancellation of the bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

May 09, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes