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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCRM-M-32991-2021 (O&M)
Date of Decision: 28.03.2022

Darshan @ Vicky

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Jatin Sharma, Advocate for
Mr. Abhimanyu Singh, Advocate for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.98 dated 17.04.2020, registered under Sections 148, 149, 302 and 120-B IPC and Section 25(1)(B) Arms Act, 1959 at Police Station Sector-9A, District Gurugram. The petitioner is in custody since his arrest on 19.04.2020.

The FIR was registered on the application moved by Sonu to the police and the allegations as noticed by the Id. Addl. Sessions Judge, Gurugram in the order dated 28.05.2021 are as under:

“Brief facts of the case are that the complainant Sonu moved an application to the police on the averments that at about 10/10.30 p.m, his brother Rahul @ Rohit was present in the colony for patrolling due to Covid 19 pandemic. The complainant alongwith Gola @ Manish, Chaman, Chotu was also present there. At about 10/10.30 p.m. Gola @ Manish took his brother Rahul @ Rohit on one side and his brother alongwith Manish @ Gola, Sunny, Mangal, Prem and Vicky gathered there and they took his brother Rahul @ Rohit on Aactiva and motorcycle. After some time, he came to know that his brother has been murdered by those persons as 4-5 months back a small quarrel had taken place and due to that enmity, Manish @ Gola alongwith his companions had murdered his brother. On the basis of it, the present case was registered and

during investigation applicant-accused was arrested.”

Learned counsel has argued that as per the allegations in FIR, the complainant's brother, namely, Rahul @ Rohit was voluntarily patrolling the area, in order to curb the spread of pandemic COVID-19 and went away with Gola @ Manish, Sunny, Mangal, Prem and Vicky and after some time, he was found dead, but the name of the petitioner does not figure in the FIR. He submits that the petitioner was falsely implicated on the basis of the disclosure statement made by the co-accused and as the case of the prosecution is based upon circumstantial evidence, the further custody of the petitioner may be necessary, as the trial is progressing at a slow pace. He prays for regular bail.

Learned State counsel assisted by ASI Ashok Kumar, has opposed the prayer and has argued that the petitioner was involved in the alleged commission of crime and the weapon of the offence was recovered from him. According to learned State counsel, the report of FSL shows that the said weapon was used in crime and regarding recovery of weapon, he has drawn the attention of the Court to the disclosure statement of the accused recorded on 21.04.2020. He, on instructions states that the charges have been framed on 16.02.2021 and only three prosecution witnesses have been examined out of total twenty eight prosecution witnesses. He prays for dismissal of the petition.

At this stage, learned counsel for the petitioner has argued that the disclosure statement dated 21.04.2020 is at variance with the first disclosure statement recorded by police on 19.04.2020, wherein the petitioner allegedly stated that the weapon is with one Neeraj at Jaipur.

However, no attempt was made to recover the said weapon from the

possession of Neeraj and subsequently, the second disclosure of the petitioner has been recorded to falsely implicate the petitioner.

After hearing the learned counsel for the parties and considering the above background, particularly the custodial period of the petitioner, his further detention behind the bars may not be necessary for any useful purpose, as conclusion of trial would consume considerable time. Apart from it, the material witnesses are either close relatives of the victim or police officials and at present, there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

28.03.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No