

CRM-M-30663 of 2022

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

CRM-M-30663 of 2022
Date of decision: 12.12.2022

Mohit @ M.K.

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Karan Singh, Advocate, for the petitioner.
Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.267 dated 23.08.2020 under Sections 302, 148, 149 IPC (Sections 148, 149 were deleted and Section 34 IPC along with Section 25 of the Arms Act, 1959 were added), registered at Police Station Sadar Jhajjar.

Briefly the allegations as noticed from the FIR in question are to the effect that the same was registered at the instance of Rajesh- brother of deceased Ashok. It is alleged in the said FIR that on 23.08.2020, he was going to Jhajjar from his house for some work, and when he reached the turn of Dadanpur at NH-71, Jhajjar-Rewari Road, he saw the motorcycle of his brother bearing registration No.HR-14J-4983, make-Bajaj Platina parked over there. When the complainant reached near the motorcycle of his

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brother after alighting from car, he noticed that his brother Ashok was smeared with blood and running towards a hotel being chased by five young persons. It is stated by Rajesh that two of these persons were known to him as petitioner-Mohit son of Mukesh resident of Dadanpur and Ravi resident of Bhaproda and that they had given knife blows to his brother Ashok Kumar in his presence at Beniwal Dhaba situated at Surheti Turn. There were three other companions alongwith them and upon seeing the complainant, all the assailants ran away. The complainant arranged for the ambulance and took his brother to hospital, where he was declared as dead, resulting into the registration of the FIR in question.

Learned counsel for the petitioner submits that the petitioner is in custody since 26.08.2020 and the complainant Rajesh Kumar has not supported the case of the prosecution. He has referred to his deposition and the relevant portion from the same reads as under: -

“PW3: - Rajesh Kumar son of Prahlad, age 46 years, occupation: agriculturist, resident of VPO Surheti, District Jhajjar.

.....I had not moved any complaint to the police. Except this, I do not know who murdered my brother Ashok.

(At this stage, accused person, namely, Ravinder @ Ravi, Mohit @ MK and Rinku are produced through video-conferencing).

I have seen accused person through video-conferencing, but I do not know who they are.

x x x x

It is incorrect to suggest that I had named accused Mohit, Ravi and their three companions in complaint Ex.PF on my own free consent or that today I am deliberately changing my version from the complaint Ex.PF given by me to the police or that I am deliberately not identifying the accused persons today in the Court on account of compromise having taken place with their families outside the Court or that I have deposed false.”

To the same effect is the deposition of other witnesses, namely,

PW2-Dharam Singh, who stated as under: -

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“.....I had never named accused Mohit @ MK and Ravi in any of my statements on their own. I was asked by the police to sign some blank papers and I did that on their asking.”

Learned counsel for the petitioner further submits that co-accused, namely, Rinku and Ravinder have already been extended the concession of regular bail by a Co-ordinate Bench of this Court vide order dated 09.05.2022 (Annexure P-6) passed in CRM-M-49220 of 2021 and CRM-M-1129 of 2022. He further submits that the petitioner is in custody for the last 02 years 03 months and 11 days and charges have already been framed and out of 25 witnesses only 10 witnesses have been examined. The case is fixed for prosecution evidence on 23.2.2023 and the trial is likely to take a considerable time to conclude.

On the other hand, learned State counsel opposed the grant of bail to the petitioner. He submits that apart from the present FIR, petitioner is involved in three other cases, which are pending against the petitioner in terms of custody certificate dated 11.12.2022, which has been filed in Court today.

To controvert the abovesaid assertion, learned counsel for the petitioner submits that in all the three cases the petitioner is on bail and this fact has been mentioned in the custody certificate itself except in FIR No.268 dated 24.08.2020 in which bail has been granted by a Co-ordinate Bench of this Court vide order dated 08.08.2022 passed in CRM-M-30869 of 2022. He further submits that mere pendency of other cases cannot be made the basis to deny bail to the petitioner in the present case. He relies upon the judgments rendered by the Hon'ble Supreme Court in ***Prabhakar***

Tewari Vs. State of U.P. and another, 2020 (1) R.C.R. (Criminal) 831 and

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Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382.

Keeping in view the custody period of the petitioner, which is 02 years 03 months and 11 days as per custody certificate dated 11.12.2022; complainant, namely, Rajesh Kumar and another witness, namely, Dharam Singh have resiled from their statements and have not supported the case of the prosecution; two co-accused, namely, Rinku and Ravinder have been extended the benefit of regular bail vide order dated 09.05.2022 and the fact that the trial is likely to take a considerable time to conclude as the case is fixed for prosecution evidence and out of 25 prosecution witnesses only 10 have been examined, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

12.12.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No