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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.31237 of 2022 (O&M)

Date of decision: 22.08.2022

Rohit @ Vicky

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Rai, Sr. Advocate
with Mr. Gautam Dutt, Advocate for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.0064 dated 16.02.2021, for offence punishable under Sections 302, 34, 449 of the Indian Penal Code, 1860 (in short 'IPC') and 25 of the Arms Act, (Sections 120-B, 148, 149 IPC and Section 27 of the Arms Act added later) registered at Police Station urban Estate Rohtak, District Rohtak.

Learned senior counsel for the petitioner has argued that while dismissing the earlier bail application, by passing a detailed order, certain incorrect facts were noticed on the basis of the affidavit of the Investigating Officer.

Brief facts of the case are that the present FIR was registered at the instance of one Pushpinder, who has stated that he is doing a private business and his uncle's son Ravi along with his friend Rahul had gone to Chandigarh two days ago. Later, he received an

information that Ravi has been murdered at Sector 6 road. On receiving the information, he reached at the hotel where he met Naveen, who told that Ravi along with friend Rahul had come to the hotel about 9.00 p.m. and around 12.00 a.m. Rahul had went out but Ravi stayed in Room No.206. Naveen was sleeping in his cabin. In the meantime, three boys came to the hotel. One boy pointed pistol towards Naveen and two boys went inside and brought Ravi out from the hotel. Thereafter, Naveen heard notice of fire arm outside and when he came out he saw the body of Ravi lying in the center of the road as he was murdered by some unknown persons.

Learned senior counsel for the petitioner has further submitted that while granting bail to 04 of the co-accused, this Court has dismissed the bail of the petitioner – Rohit @ Vicky, on the ground that it has come in the affidavit of the Investigating Officer that he was involved in FIR No.48 where Ravi was a witness and there is a motive to commit the offence/murder of Rohit and therefore, he is involved in the present case.

A specific query was put on 17.08.2022, which reads as under:-

“Affidavit of the Superintendent of Police, Rohtak is taken on record.

On the last date of hearing i.e. 26.07.2022, the following observations were made:

“Learned senior counsel for the petitioner submits that while dismissing first application for bail, it was observed by this Court that since the petitioner was an accused in FIR No.48, therefore, he had a motive in the present FIR No.64. It is further submitted that till the time, the petitioner was arrested in the present FIR, his involvement in FIR No.48 was not there, as per police record and only after his arrest, as per his own disclosure of the

petitioner, he was nominated in FIR No.48, therefore, the aforesaid finding is not factually correct.

Let affidavit of the Superintendent of Police, Rohtak, after verifying the aforesaid fact, be filed.”

On the face of it, the affidavit of the Superintendent of Police, Rohtak is silent about the aforesaid facts.

Learned senior counsel has referred to the report submitted under Section 173 Cr.P.C. in present FIR No. 48, wherein it is observed as under:

“...During investigation, as per disclosure statement of accused Rohit @ Vicky s/o Jagbir, r/o Janta Colony, Rohtak made in FIR No. 64 dated 16.02.2021 under Sections 302, 449, 120-B IPC, 25/54/59 of Arms Act registered at P.S. Urban Estate Rohtak, by bringing him on 24.02.2021 on production warrants of the Hon'ble Court, he was joined in investigation. During investigation, disclosure statement of accused was recorded. According to disclosure statement, demarcation of place of occurrence was got conducted from the accused.”

On the asking of Court, ASI Surender, who is present in Court, has produced the original confessional statement of petitioner Rohit @ Vicky and a perusal of the same would reflect that he has nowhere admitted his active involvement in the murder of Ravi, who was staying in a hotel.

List again on 22.08.2022.

The Superintendent of Police, Rohtak is directed to remain present before this Court on the next date of hearing along with an explanation in this regard.”

The Superintendent of Police, Rohtak was directed to file his affidavit.

Counsel for the State has filed the affidavit on behalf of the Superintendent of Police, Rohtak today in the Court, in which it has come that Ravi was involved in this case under Section 120-B IPC whereas his involvement in FIR No.48 was on the basis of his own disclosure statement, after his arrest in FIR No.64.

Counsel for the State has also referred to the statement of

Granth son of Atul recorded under Section 161 Cr.P.C. in the present FIR wherein he has stated that on 15.02.2021, Deepanshu and the petitioner Rohit @ Vicky along with one Yash @ Aman had come to him and asked for car No.DL8C-L-7860 for attending a marriage, however later on, he came to know that the same was used for committing the murder.

Counsel for the State has further submitted that even in the statement of Rahul recorded under Section 161 Cr.P.C., a similar averment has been made. Lastly, it is argued that out of 36 PWs, no PW has been examined.

Without commenting anything on merits of the case, considering the fact that the primary evidence against the petitioner is of his involvement under Section 120-B IPC and from 30.01.2021 when FIR No.48 was registered till 16.02.2021, when the present FIR No.64 was registered, the police did not record the statement of deceased Ravi, who was a witness in FIR No.48 to support the version that the motive is attributed to the petitioner to commit the crime as Ravi was a witness in FIR No.48 and also in view of the fact that the petitioner is in custody for the last 01 year 06 months and 02 days; the co-accused of the petitioner are already released on bail; out of 36 PWs, no PW has been examined; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for

cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

22.08.2022
yakub

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