

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(227)

CRM-M-31059-2022

Date of decision: - 25.07.2022

Shantnu @ Jermany

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. R.A. Sheoran, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.23 dated 06.02.2021, under Sections 452, 302, 120-B and 34 IPC and Section 25 of the Arms Act, 1959, registered at Police Station Jhojhu Kalan, District Charkhi Dadri.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 16.02.2021 and the challan has already been presented and there are 28 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. It is stated that the petitioner is not involved in any other case. It is further stated that the FIR in the present case was got registered on the basis of statement of complainant Rambir, who had given a statement on

06.02.2021 to the effect that his son Nitish alias Soni had been killed by Akash and two unknown persons. It is further submitted that in the FIR dated 06.02.2021, the name of the present petitioner had not been mentioned and it is in the supplementary statement dated 07.02.2021 of the complainant, in which, the name of the present petitioner as well as another co-accused, namely, Shivkant @ Nitin has been mentioned. It is contended that no source of information has been mentioned in the said supplementary statement as to from where the complainant came to know the name of the present petitioner or that of Shivkant @ Nitin and for the said purpose, has referred to paragraph 6 of the order passed by the Additional Sessions Judge, Charkhi Dadri (Annexure P-3), granting bail to said Shivkant @ Nitin, who is a juvenile. Learned counsel for the petitioner has further contended that in the present case, neither any injury has been attributed to the petitioner nor any recovery has been effected from him and the sole injury caused to the complainant has been attributed to co-accused Akash. It is also submitted that as per the disclosure statement of Akash (Annexure P-2), he had stated that he committed the said act as the deceased Nitish had a bad eye towards his sister and had also uttered wrong/bad words against her and made a comment to keep his sister as a concubine.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that in the present case as per the disclosure statement of co-accused Akash, although the gun shot was fired by Akash, but the present petitioner and one Nitin were present there at the place of occurrence and it was the motorcycle of the

present petitioner, which was used to flee from the spot and the said motorcycle has already been recovered from the present petitioner. The other factual aspects however, have not been disputed by learned State counsel.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 16.02.2021 and the challan has already been presented and there are 28 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time and the petitioner is stated to be not involved in any other case. As per the case of the prosecution, no injury has been attributed to the present petitioner nor any weapon has been recovered from him. On 06.02.2021, FIR was registered on the statement of complainant-Rambir, in which, Akash (co-accused), who is alleged to have given the fatal shot, was specifically named, but the present petitioner was not named and the petitioner along with the said Shivkant @ Nitin was named in the supplementary statement dated 07.02.2021. A perusal of the order dated 22.06.2021 passed by the Additional Sessions Judge, Charkhi Dadri (Annexure P-3), more so paragraph 6, granting bail to Shivkant @ Nitin shows that it has been observed that the statement dated 07.02.2021 does not reflect as to from what source of information the complainant came to know the name of the present petitioner or that of Shivkant @ Nitin. At any rate, the question, whether, the petitioner is also involved in the present case or not, would be finally adjudicated during the course of trial.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

July 25, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No