

221

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31857-2022 (O&M)
Date of Decision:08.09.2022

Devender

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vishwajeet Singh, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this second petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.224 dated 03.08.2019, under Sections 302 and 34 IPC (Section 120-B IPC added later on) and Section 25 Arms Act, 1959 at Police Station Farrukh Nagar, District Gurugram The petitioner is in custody since his arrest on 18.08.2019.

The FIR was registered on the statement of Sunder Lal, wherein it was alleged that he had two sons, the elder one, namely, Prateek, who was working at Maruti, whereas the younger one, namely, Yatin used to sell milk. On 2.8.2019, at about 5.45 p.m. when Yatin was going from Joniyawas to Garhi Harsaru for selling milk and reached in front of petrol pump near Jhankar School, then the unknown assailants riding on a motorcycle shot him. When he called Yatin on his mobile, then an unknown boy picked up the same and told that Yatin had been shot, who was being taken to Rockland Hospital at Manesar for admission. On getting this information, he reached Rockland Hospital where the Doctor declared him

dead. On these broad allegations, the present FIR was registered.

Learned counsel for the petitioner has argued that there is no eye-witness of the alleged occurrence and as per prosecution case, victim Yatin died of gunshot injuries, which are attributed to co-accused, namely, Rohit and Jogender. He has submitted that in all, there are 8 accused and 5 have already been released on bail including co-accused Pushpender, who was granted regular bail by this Court vide order dated 31.07.2020 (Annexure P-3). Learned counsel has argued that the complainant Sunder Lal has already been examined, therefore, further custody of the petitioner may not be necessary. He prays for bail.

Learned State counsel assisted by ASI Dalwinder, has opposed the prayer on the ground that the petitioner participated in the crime, as he was driving the motorcycle with two pillion riders, and the said co-accused had fired the shots upon victim. He submits that the weapons of offence were recovered from those two co-accused and the FSL report supports the case of the prosecution. He further submits that from the petitioner, the motorcycle used in the crime was recovered, therefore, the case of the petitioner is distinguishable from co-accused Pushpender. Learned State counsel further states that nine prosecution witnesses have been examined out of total twenty prosecution witnesses.

At this stage, learned counsel for the petitioner has argued that the case of the prosecution is based upon the circumstantial evidence and there is no evidence with the prosecution to show the involvement of petitioner's motorcycle in the crime. He submits that the material witnesses have been examined, therefore, he be released on bail.

After hearing the learned counsel for the parties, considering

the above background as well as the custody of the petitioner, this Court finds that since the material witnesses have already been examined by prosecution, whereas remaining witnesses are official witnesses and presently, there does not seem to be any possibility of their being won over, therefore, the further detention of the petitioner behind the bars may not serve any useful purpose because the trial is likely to consume considerable time to conclude.

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

The petition is allowed.

08.09.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No