

CRM-M-32735-2022

Date of Decision:22.11.2022

RAHUL @ RAHUL KATARIA
V/S

... PETITIONER

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Jagmohan Singh Ghumman, Advocate for the petitioner.
Mr. Gurbir Singh Dhillon, AAG Haryana.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 588 dated 28.09.2019, under Sections 365 IPC, 1860, later on added Sections 148/149/364/302/120-B, 109 IPC and Section 25 of Arms Act registered at Police Station Sector-10, District Gurugram.

Briefly, the FIR has been registered on the basis of the statement of Hariom alleging that on 27.09.2019 his cousin Sanjeev was sitting in the house of the petitioner, meanwhile Jony and Mony alongwith 8-10 boys came in the Swift car and two motorcycles. They had a talk with Sanjeev and Jony took Sanjeev out of the house, made him to sit in a Swift car and ran away. The petitioner and other persons followed them on the motorcycles. Efforts were made to search Sanjeev but to no effect.

Learned counsel for the petitioner contends that the statements of 2 material witnesses namely Hariom, complainant and his brother Shri Om have been recorded during the course of trial but they have not implicated the petitioner with the commission of crime. Both these witnesses have not supported the prosecution version as far as the petitioner is concerned. The other 2 witnesses namely Jitender and Guddi Devi who are the relatives of the deceased have been given up by the prosecution during the course of

trial.

Learned State counsel has argued that the petitioner has been named in the FIR as the deceased was sitting in his house. Subsequently, the co-accused took the deceased with them from the house of the petitioner and killed him by means of fire arm injuries. However, it has not been disputed that the complainant and his brother have not supported the prosecution version qua the petitioner during the course of trial.

The custody certificate indicates that the petitioner is in custody for a period of 3 years, 1 month and 18 days. Although, he is stated to be involved in 2 other cases with regard to the offences which are triable by the Court of learned Judicial Magistrate but significantly, the main witnesses have not supported the prosecution version qua the petitioner during the course of trial. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making 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 fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

22.11.2022

Janki

(VIVEK PURI)
JUDGE

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