

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48659-2021 (O&M)
Date of decision: 22.03.2022

Anil @ Dhola

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Dhull, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.166 dated 16.03.2016 under Sections 302, 120-B, 201, 34 IPC and Section 25/54/59 of Arms Act, registered at Police Station Sadar Rohtak, District Rohtak.

Learned counsel for the petitioner, at the very outset, relies upon the order dated 11.01.2021 passed in CRM-M-40594-2020, vide which co-accused Rakesh @ Pampu was granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned counsel for the petitioner submits that the FIR was registered on the statement of Chander Singh that his son Sunny Dev is not residing with him, whereas his another Sukhwinder @

Puttu is residing with him. On 15.03.2016, his daughter informed him that when Sukhwinder @ Puttu was coming towards home, two young boys riding on a scooty, fired shot upon him and he fell down and later on, died in hospital. It is further submitted that the petitioner is in custody since 06.04.2016 i.e. for the last about 04 years and 09 months; challan stands presented and out of total 49 prosecution witnesses, only 01 PW has been examined so far and the trial is not progressing in view of COVID-19 situation. It is also submitted that as per the FIR, nothing is attributed to the petitioner and after his arrest, no weapon is recovered from him.

*Learned counsel for the petitioner further submits that the evidence, which has come against the petitioner, is the disclosure statement of one of the co-accused or the petitioner's own disclosure statement regarding commission of the offence. It is further submitted that it has been held by the Hon'ble Supreme Court in **Prabhakar Tewari Vs. State of U.P. and anr., 2020 (1) RCR (CrL) 831** that involvement of a person in other FIRs, is not a ground to dismiss the bail application.*

Learned State counsel has filed the reply by way of affidavit of Investigating Officer/ASI Paramjeet in the Court today, in which it is stated that it has come during the investigation that the petitioner was nominated on the disclosure statement of co-accused. It is further stated that earlier son of the complainant Sunny Dev had killed Devender (brother of Surrender) and said

Sunny has not been apprehended and therefore, on account of enmity, the other son of the complainant namely Sukhwinder @ Puttu was murdered by Surender and others in conspiracy with each other. Learned State counsel has further submitted that the petitioner is involved in some other FIRs.

In reply, learned counsel for the petitioner has submitted that no motive is attributed to the petitioner, except that co-accused Surender has made a statement that he has approached the petitioner for killing the deceased...”

Learned counsel submits that one another co-accused Surender @ Sundara was also granted the concession of regular bail by the Additional Sessions Judge, Rohtak vide order dated 06.12.2016; custody of the petitioner is about 06 years and out of total 49 prosecution witnesses, only 06 PWs have been examined so far. Learned counsel has referred to statement of daughter of the complainant, namely Pinky, who appeared as PW3, to submit that she has identified accused Sundra, who was present in the Court and a person, who was wearing yellow T-shirt, who, on asking of the Court, disclosed his identity as Anil son of Dhanraj and the petitioner and one more person were not identified. Even statement of two other private witnesses i.e. PW1 Krishan and PW2 Chander Singh have been recorded, therefore, there is no apprehension of extending any threat to the private witnesses, as the remaining witnesses are official witnesses.

Learned State counsel has filed the custody certificate dated 21.03.2022 in the Court today and on the basis of status report by way of

affidavit of Investigating Officer/SI Jaswant, submits that during the investigation, it was found that the petitioner has played an active role by providing a mobile phone bearing No.99920-72244 to co-accused Ankit and a pistol to co-accused Amarjeet and the same were used in the commission of crime. It is further submitted that the petitioner is involved in two more cases, though in FIR No.1284 of 2015, he stands acquitted, as reflected in the custody certificate itself and is on bail in another FIR.

In reply, learned counsel for the petitioner has submitted that in the evidence recorded so far, it is not the case of the prosecution that the petitioner was present at the spot and the allegation is that he has supplied the mobile phone and a gun to the co-accused.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

[ARVIND SINGH SANGWAN]
JUDGE

22.03.2022
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No