

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.211

CRM-M-38521-2019 (O&M)
Date of decision: 13.01.2022

Mahesh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. B.S. Rana, Senior Advocate with
Mr. Nayandeep Rana, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

* * *

DEEPAK SIBAL, J. (Oral)

The matter has been taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.75 dated 09.03.2018, registered under Sections 25, 54, 59 of the Arms Act, 1959 and 148, 149, 302, 120-B IPC at Police Station Sahlawas, District Jhajjar.

The petitioner is being prosecuted for the murder of Ram Kumar which he allegedly caused by firing upon him by his revolver that he was carrying.

Learned Senior counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case; there is no other criminal case pending against the petitioner; the petitioner is in custody for the last over 03 years and 04 months; in the petitioner's trial, all material witnesses have since been examined; there were allegedly four eye-witnesses three out of whom namely PW-2 Sandeep, PW-4 Ajit and PW-5 Jagbir have turned hostile; the only alleged eye-witness, PW-1 Vinod, who has purportedly towed the line of the prosecution is the deceased's son and has deposed falsely on account of his relationship with the deceased; there is enough evidence on the record to doubt PW-1 Vinod's presence on the spot; as per the FSL report there is no definite opinion to link the bullet recovered from the deceased's body with the revolver allegedly

recovered from the petitioner; the petitioner did not misuse the concession of interim bail granted to him earlier and that the petitioner's trial in which 20 prosecution witnesses still remain to be examined will take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that he is the sole accused in Ram Kumar's murder and that PW-1 Vinod has supported the prosecution's case.

Whether PW-1 Vinod was present at the spot or has supported the case of the prosecution only as an interested witness would be debated during the course of the petitioner's trial. However, the petitioner is in custody for the last over 03 years and 04 months; there is no other criminal case pending against him; in the petitioner's trial, all material witnesses have been examined; out of the four alleged eye-witnesses three namely PW-2 Sandeep, PW-4 Ajit and PW-5 Jagbir have turned hostile; as per FSL report there is no definite opinion to link the bullet recovered from the deceased's body with the revolver allegedly recovered from the petitioner; the petitioner did not misuse the concession of interim bail granted to him earlier and that the petitioner's trial in which 20 prosecution witnesses still remain to be examined is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Jhajjar, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

Januart 13, 2022
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No