

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M-46090-2022
Decided on : 14.10.2022**

Sandeep @ Ponga

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Ms. Eknoor Kaur Sara, Advocate for
Mr. Gautam Dutt, Advocate
for the petitioner(s).

Mr. Vikas Bhardwaj, AAG, Haryana
assisted by ASI Jile Singh.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Sandeep @ Ponga, who has been booked for having committed the offence punishable under Sections 114, 120-B, 148, 149, 302, 201 of IPC and Section 27/54/59 of Arms Act, 1959, in FIR No. 0079, dated 19.03.2021, registered at Police Station Sahlawas, District Jhajjar, during the pendency of trial.

Learned counsel for the petitioner submits that out of total 05 accused, three have been named as accused in the present FIR i.e. Sandeep @ Ponga (present petitioner), Devender @ Kaliya and Sumit @ Tatla @ Bhole. The fourth one was mentioned as un-known, whose name later on surfaced as Yogesh @ Monu and Mandeep @ Marshal.

Learned counsel for the petitioner argues that in the murder of Vikram, main role of firing shot has been attributed to Sumit @ Tatla @

Bhole and as per FIR, no other accused is stated to be present at the spot. Learned counsel for the petitioner further refers to the statement of complainant-eyewitness Ravinder Singh @ Padam, deposed before the trial Court, in which, the allegations mentioned in the FIR have been reiterated in regard to the firing of shot and the accused present there. She further refers to the cross-examination of the said eyewitness, wherein, in specific it is stated by the complainant that “accused Sandeep @ Ponga and Devender @ Kalia were not present at the place of occurrence and no role in the alleged incident.” Thereafter, said witness has been declared hostile by public prosecutor before the trial Court.

Learned counsel for the petitioner further refers to the order dated 01.06.2022, passed in CRM-M-23840-2022 (Yogesh @ Monu Vs. State of Haryana) and order dated 03.08.2022, passed in CRM-M-33013-2022 (Mandeep @ Marshall Vs. State of Haryana) (annexed as Annexures P-3 & P-4, respectively), who have been extended the concession of bail by the coordinate Bench of this Court. As per learned counsel for the petitioner, he is not involved in any other case of similar nature. He further submits that there are fairly arguable points during the course of the trial, showing the innocence of the petitioner, and further incarceration of the petitioner is not worth in this case, as petitioner is inside jail since 22nd March, 2021 and trial is not likely to conclude in the near future.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, submits that petitioner is equally responsible being member of the gang in Akhara and there might be common purpose of all of them to eliminate the deceased i.e. Vikram. Learned State counsel also informs this Court that out of total 30

prosecution witnesses, only 01 has been examined i.e. Ravinder Singh @ Padam.

After hearing learned counsel for the parties and perusing the relevant material on record with their able assistance, this Court finds substance in the submissions made by learned counsel for the petitioner by observing that certain questions would be before the trial Court at the final stage of the trial to examine that the element of common intention exists or not against all the accused other than the Sumit @ Tatla @ Bhole. Once, the other accused i.e. petitioner in specific is not even alleged to be present on the spot at the time of firing of the shot, his involvement in the committal of murder, is yet to be ascertained. It is not the allegation of the prosecution that petitioner was armed with any specific weapon or has caused any specific injury to the deceased. Besides this, petitioner is inside jail for the last about 01 year and 07 months, and only one witnesses has been examined so far, out of the total 30 prosecution witnesses, and two of the co-accused i.e. Yogesh @ Monu and Mandeep @ Marshall, have been extended the concession of bail by the coordinate Bench of this Court.

Consequently, after considering all the aspects, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an

expression of opinion on the facts of the case and the Trial Court is expected to decide the case on the basis of complete evidence available on record.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

October 14, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*