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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-46529-2022
Date of Decision: 15.11.2022

HIRDESH KUMAR

....Petitioner

VERSUS

STATE OF HARYANA

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present : Mr. Gaurav Dutta, Advocate
for the petitioner.

Mr. Vishal Kashyap, AAG Haryana

Prayer in this petition is for grant of regular bail to the petitioner in the case bearing FIR No.214 dated 29.07.2021 under Sections 302, 201 IPC, Sections 25, 54, 59 of Arms Act (later on added 364, 34 of IPC and Section 3 of SC/ST Act, 1989), at Police Station Kheri Pul, District Faridabad.

Counsel for the petitioner submits that the petitioner who is in custody since 31.07.2021 is falsely implicated in this case and during investigation no incriminating article was recovered at his instance by the police. The counsel for the petitioner has further submitted that during trial complainant Mannu Kumar and other material witnesses namely Shankar Ram, father of the deceased and one Rahul retracted from their previous statements and have not supported the case of the prosecution. The counsel for the petitioner further submits that it will take considerable time for the trial to conclude and as such no purpose is going to be served by prolonging the judicial custody of the petitioner for any longer period.

The present petition is opposed by the State counsel, who on instructions from SI Rajinder, has not disputed the fact that the petitioner is in custody since 31.07.2021 and that during investigation no incriminating article was recovered at his instance by the police and that during trial complainant Mannu Kumar and other material witnesses were declared hostile. The State counsel further submits that in the present case, Rishi was killed by Brajesh along with other co-accused including the petitioner as Rishi was having an affair with his daughter. The State counsel further submits that during investigation one pistol and one Fortuner car used in the commission of crime were recovered from the possession of said Brajesh. The State counsel further submits that there is also call detail record collected by the police during investigation to establish the complicity of the present petitioner in the murder of Rishi. Prayer is made that petitioner is not entitled to get the benefit of regular bail at this stage when the trial is going on.

I have considered the submissions made by the counsel for the parties. The custody period of the petitioner comes out to be more than 1 year and 3 months and the prosecution in this case was initiated with regard to the murder of Rishi on the basis of statement of his uncle Mannu Kumar. Admittedly, said Mannu Kumar and Shankar Ram, father of the deceased while appearing in the witness box failed to support the case of the State as is evident from Annexure P-4. Even other prosecution witnesses namely Rahul and Sonu were also declared hostile during the trial. No incriminating article was recovered from the possession of the present petitioner. Further it will take considerable time for the trial to conclude.

In view of the above, no purpose is going to be served by keeping the petitioner in custody for any longer period. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

November 15, 2022
Parkash

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