

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-51491-2021 (O & M)****Date of decision: 06.07.2022**

Ajay

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rajesh Lamba, Advocate, for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

Mr. Manoj Tanwar, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)**CRM-18882-2022**

The application for placing on record supplementary challan dated 05.01.2022 (Annexure A-1) alongwith statements under Section 161 Cr.P.C. of Ravi (Annexure A-2), Kavita (Annexure A-3) and Sonia (Annexure A-4) and Crime Scene Visit Report (Annexure A-5), is allowed as prayed. The aforementioned documents are taken on record. The Registry is directed to tag the same at the appropriate place of the paper-book.

CRM-M-51491-2021

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in a case FIR No.206 dated 08.08.2021 under Sections 302, 212, 506 and 34 IPC registered with Police Station Lakhan Majra, District Rohtak.

The brief facts of the case are that Ajeet son of Raghbir alias Meera got registered the present FIR with the allegations that his elder brother Jagdish had gone to pay obeisance in the temple situated in the fields at about 8.00 O’Clock on the day of occurrence. Suresh son of Randhir accompanied by a young boy was already present there for a long time. These two boys had pulled his brother down in the rice field and committed his murder as the assailants were having a previous grudge with the family of the deceased-Jagdish. Therefore, he sought a legal action against Suresh son of Randhir and his companion.

The learned counsel for the petitioner contends that the petitioner is not named in the FIR and there is no eye-witness/independent witness to the occurrence. In fact, the FIR was registered against Suresh son of Randhir and one unknown person and the petitioner has been falsely implicated in this case in order to pressurize his father not to contest the Sarpanch elections against the nephew of the complainant. He contends that the statements under Section 161 Cr.P.C. of Ravi (Annexure A-2), Kavita wife of Ashok (Annexure A-3) and Sonia (Annexure A-4) do not further the case of the prosecution as none of them have witnessed the occurrence. He further contends that the statement of Kavita, daughter of Jagdish (deceased) was only recorded under Section 161 on 05.10.2021 i.e. almost two months after the occurrence. As per the said statement, Kavita had seen the petitioner and his co-accused committing the murder of her father but had chosen to keep quiet and had, in fact, gone back to her matrimonial village. Similarly, he refers to the statement under Section 161 of Ajeet (complainant) dated 04.10.2021. As per the said statement, he claims himself to be an eye-witness but he had not named the petitioner being an assailant in the FIR. He, thus, contends that Kavita, daughter of deceased-

Jagdish and Ajeet cannot be believed in the absence of any other tangible evidence, the petitioner be granted the concession of regular bail, moreso, when he is in custody since 19.08.2021.

The learned counsel for the State has filed a reply dated 05.07.2022. The same is taken on record. The Registry is directed to tag the same at the appropriate place of the paper-book. He contends that the FIR has been registered at the instance of Ajeet @ Meera against Suresh son of Randhir and another. He refers to the various disclosure statements of the petitioner and Suresh to contend that there was sufficient evidence available against the petitioner to deny him the concession of bail. He also refers to the statement of Kavita and Ajeet to contend that though their statements that they were the eye-witnesses, had been recorded later, yet the veracity of the statements cannot be gone into at this stage, and therefore, the petitioner would not be entitled to the concession of bail. He, however, does not deny the fact that in the initial version of the complainant, the petitioner was not named as the assailant and so far as the Kavita, daughter of Jagdish (deceased) was concerned, no prior statement other than the one dated 05.10.2021 was ever made by her to the investigating agency.

The learned counsel for the complainant while supporting the case of the State submits that merely because there is a delay in recording the statement of Kavita daughter of the deceased-Jagdish of approximately two months, would not be reason enough to disbelieve her version regarding the petitioner being an assailant alongwith Suresh. He also contends that the statement under Section 161 Cr.P.C. of Ajeet was also recorded in which he had clearly stated that the Suresh and the petitioner were the assailants. He, thus, contends that the petitioner does not deserve the concession of bail.

As per the initial version of the complainant, the petitioner is not named in the FIR. The statements of Ravi, Kavita and Sonia do not refer to the petitioner as an assailant. The evidentiary value of the statements under Section 161 Cr.P.C. of Kavita, daughter of deceased-Jagdish and the complainant-Ajeet would be examined by the Trial Court at the relevant stage.

Keeping in view the aforementioned facts as also the period of custody undergone by the petitioner, the further incarceration of the petitioner is not required. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Ajay, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

July 06, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No