

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-48573-2022(O&M)

Date of decision : 30.11.2022

Anirudh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Aditya Sanghi, Advocate
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

Mr.Japjit Singh Johal, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.568 dated 31.05.2022 registered under Sections 120-B, 302, 307, 323, 325, 34, 447, 506 IPC at Police Station Barwala, District Hisar.

Learned counsel for the petitioner has submitted that in the present case, the FIR was registered on the statement of Bansi Lal with respect to the death of his brother-in-law Raj Kumar and in the said FIR, said Bansi Lal had given the details of the entire occurrence and had not named the present petitioner as being one of the persons who was either present at the spot or who had been attributed any overt act. It is further submitted that the complainant had specifically named Sushil and Gurmeet

as accused in the FIR. It is stated as per the FIR that the alleged incident had taken place on 30.05.2022 and the FIR was registered on 31.05.2022 and even the eye witnesses, whose statements have been recorded under Section 161 Cr.P.C. i.e., Sunder (son of the deceased), Jaidev and Rampal, have also not named the present petitioner in their statements recorded on 31.05.2022 and the same have been annexed as Annexures P-7 to P-9 along with the present petition. It is further stated that on 09.06.2022, after a delay of more than 10 days from the alleged occurrence, the complainant Bansi Lal had named the present petitioner as the person who was also present at the spot and had instigated his sons. It is further stated that even as per the said statement, no injury is stated to have been caused by the present petitioner to the deceased or any other person. It is submitted that the petitioner has been falsely implicated only on account of the fact that he is the father of Sushil and Gurmeet and that the petitioner is an old person of 57 years and has been in custody since 20.06.2022 and the challan has been presented and there are 24 witnesses, out of which, none have been examined and thus, the trial is likely to take time.

Learned State counsel and learned counsel for the complainant, on the other hand, have opposed the present petition for regular bail and have submitted that recovery of the motor cycle has been effected from the present petitioner. It is further submitted that in the supplementary statement dated 09.06.2022, the complainant had specifically stated that the present petitioner was also present at the spot and had instigated his sons to commit the offences. It is stated that even in the disclosure statement of Sushil and Gurmeet, the petitioner has been named.

that the petitioner is involved in six other cases.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has been acquitted in the said six cases and has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Learned State counsel, on the instructions from SI Raghubir Singh, has also verified that the petitioner has been acquitted in the said six other cases.

This Court has heard learned counsel for the parties and has perused the paper book.

The FIR in the present case was registered on the statement of Bansi Lal with respect to the death of Raj Kumar, brother-in-law of the complainant, and in the FIR the complainant had given all the details with respect to the incident and had not named the present petitioner as being one of the persons who were present at the time of the occurrence. Said Bansi

Lal had specifically named Sushil and Gurmeet as the persons, who were present at the time of the occurrence. The incident had taken place on 30.05.2022 and the FIR was registered on 31.05.2022. The statements of three eye witnesses were also recorded on 31.05.2022 i.e., of Sunder (son of the deceased), Jaidev, Rampal (brother of the deceased) and the same have been annexed with the present petition as Annexures P-7 to P-9 and even the said persons had not named the present petitioner as a person who was present at the spot. It is in the supplementary statement of Bansilal dated 09.06.2022 that the petitioner had been named and even as per the said statement, no injury has been attributed to the present petitioner to either the deceased, or any other person. The petitioner has been in custody since 20.06.2022 and the challan has been presented and there are 24 witnesses out of which none have been examined and thus, the trial is likely to take time.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently

of adjudicating the present bail petition.

Pending miscellaneous application stands disposed of in view
of the abovesaid order.

November 30, 2022

Davinder Kumar

(VIKAS BAHL)

JUDGE

Whether speaking / reasoned

Whether reportable

Yes/No

Yes/No