

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-51746-2022 (O & M)****Date of decision: 07.12.2022**

Rinku

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rao Ajender Singh, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.185 dated 04.07.2020 under Sections 216, 302 and 34 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Safidon, District Jind.

2. The present FIR came to be registered at the instance of one Karan Singh son of Surja Ram, who stated that he was a resident of Sillakheri, District Jind. He had four children. One of his sons Ankit was working as a driver on a truck. On 03.07.2020, while he was present at his house, his son Ankit (since deceased) was also present with him. In the meantime, Deepak son of Ram Mehar, a resident of Sillakheri came to his house around 8.30 p.m. accompanied by one more boy wearing a pink coloured T-shirt and Capri. He could identify the boy on seeing him again. They called his son out and his son left with them. As his son did not come back, he searched for him but could not find him. Ultimately, on the next date, he received an intimation that a dead body was lying at the stadium.

When he went to the stadium of the village, he found his son Ankit, aged

about 24 years lying dead with a bullet mark behind his head. He suspected that someone had murdered his son with a fire-arm and Deepak could provided the details in this regard.

Pursuant to the arrest of Deepak, he allegedly suffered a disclosure statement wherein he stated that the petitioner had accompanied him on the day of occurrence.

3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR. The petitioner is of the same village i.e. Sillakheri and it does not stand to reason that the complainant was unable to identify him when he is said to have accompanied Deepak (main accused) to the house of the complainant in order to take away Ankit (since deceased). He contends that the statement of the complainant has been recorded as PW-1 (Annexure P-2). As per the said statement, the petitioner has not been identified in Court by the complainant. In fact, the deposition in Court is virtually identical to the FIR wherein the petitioner is not named. The weapon of the offence has been recovered from Deepak and the weapon recovered from the petitioner is not connected to the offence in question as the deceased (Ankit) had received one injury only. He contends that the petitioner is in custody since 12.07.2020 and only 01 of the 20 prosecution witnesses has been examined so far, and therefore, the Trial is not likely to be concluded anytime soon. Thus, the petitioner ought to be granted the concession of bail, moreso, when he has no criminal antecedents.

4. The learned counsel for the State, on the other hand, has filed a reply/status report by way of an affidavit of Ashish Kumar, Deputy Superintendent of Police, Safidon, District Jind, on behalf of the respondent-State dated 01.12.2022. The same is taken on record. While referring to the

Ankit had established illicit relations with the wife of Deepak while he was in jail and the deceased-Ankit often visited the house of Deepak. Deepak and the petitioner conspired to commit the murder of Ankit and in furtherance of their plan committed the offence. He contends that the weapon recovered from Deepak matches the fired bullet from the body of the deceased-Ankit. However, the weapon recovered from the petitioner, as such, is not connected to the offence. He, however, contends that the nature of the allegations against the petitioner does not entitle him to the grant of bail, though, the petitioner is in custody since 12.07.2020 and only 01 of the 20 prosecution witnesses has been examined so far.

5. I have heard the learned counsel for the parties at length.

6. Admittedly, the petitioner is not named in the FIR. His name has come up in the disclosure statement of the arrested accused-Deepak. It would be a matter of adjudication during the course of Trial as to whether the evidence against the petitioner is sufficient to establish his guilt. At this stage, the petitioner is in custody since 12.07.2020 and only one of the 20 prosecution witnesses has been examined so far, therefore, the Trial of the case is not likely to be concluded anytime soon. As such, the further incarceration of the petitioner is unwarranted.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Rinku, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

December 07, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No