

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(250)

CRM-M-54054-2022

Date of decision: - 29.11.2022

Anurag Partap @ Raju

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rakesh Kumar Lathwal, Advocate, for the petitioner.

Mr. Vishal Malik, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.63 dated 18.02.2020 registered under Sections 302 and 34 of Indian Penal Code, 1860 at Police Station Sonipat Rai, District Sonipat (Haryana).

Learned counsel for the petitioner has submitted that the petitioner is in custody since 04.06.2020 and is not involved in any other case. It is further submitted that the material witnesses in the present case including PW2-Vishal (complainant), PW3-Pintu, PW4-Rakesh Bharti (nephew of the deceased) have already been examined and they have not supported the case of the prosecution. It is contended that FIR in the present case was registered by the complainant merely on the basis of suspicion. It is further contended that there are 22 prosecution witnesses,

out of which, 14 witnesses are yet to be examined and thus, the conclusion of trial is likely to take time. It is further submitted that co-accused of the petitioner, namely, Aadesh @ Golu, who is similarly placed as the present petitioner, has already been granted the concession of regular bail by this Court, vide order dated 14.11.2022 passed in CRM-M-30954-2022.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that FIR in the present case was recorded on the statement of Vishal, who had stated that his father Vashisht Bharti (deceased) was a contractor by profession and the present petitioner along with Aadesh @ Golu and Umesh were working with his father as labourers and when his father had gone missing then, after making telephonic calls to the petitioner and other labourers, the complainant searched for the deceased and he found his father on the third floor of plot No.2181, Rai and his father's hands and legs were found to be tied with a rope and his mouth was also tied with clothes and then on the basis of same, the present FIR was registered by said Vishal against the present petitioner, Aadesh @ Golu and Umesh by alleging that he was suspicious of the said three persons. It is further submitted that even though the material witnesses have turned hostile but the case is based on circumstantial evidence and the present case involves the death of father of the complainant, thus, the petitioner does not deserve the concession of regular bail. It is also submitted that the recovery of bike of the deceased has been made from the present petitioner.

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

In the present case, the petitioner was named by the complainant-Vishal in the FIR on the basis of suspicion. Said Vishal has been examined as PW2 and he has stated that the accused persons who were present in the Court that day, which included the present petitioner, were not the persons who had committed the murder of his father and accordingly, he has been declared to be hostile and even PW4-Rakesh Bharti, who is the nephew of the deceased has also specifically stated in his examination-in-chief that neither did he reach the place of occurrence nor he knows the accused persons including the present petitioner and he has also been declared as hostile. PW3-Pintu has also stated that he had seen the accused persons which included the present petitioner in the Court on said day and they were not the culprits who had murdered the father of the complainant and even he had been declared as hostile. The petitioner has been in custody since 04.06.2020 and is stated to be not involved in any other case and out of 22 prosecution witnesses, 14 prosecution witnesses are yet to be examined and thus, the conclusion of trial is likely to take time. Moreover, co-accused of the petitioner, namely, Aadesh @ Golu has already been granted the concession of regular bail by this Court, vide order dated 14.11.2022 passed in CRM-M-30954-2022 and the case of the present petitioner is almost on a similar footing as that of said co-accused Aadesh @ Golu.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on

regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, 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 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 an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

November 29, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No