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(281)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1342-2023

Date of Decision: 30.10.2023

SURESH @ BITTU

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.N. Lohan, Advocate
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.136 dated 27.06.2020 registered under Sections 148, 149, 302, 364, 404 IPC, Section 25 of Arms Act, 1959 and Section 3(2)(v) of SC/ST Act at Police Station Safidon, District Jind.

2. The present FIR came to be registered at the instance of Dimple wife of Surender (deceased) who stated that on 23.06.2020 her husband Surender son of Rajender had gone to meet her brother Sunil son of Dilbag. There had been an altercation between her husband Surender and one Boch son of Rajveer a few days earlier on the telephone. On the date of the occurrence, her husband Surender along with one Ashish son of Buta and her (complainant's) nephew went to the Dargah of Peer Baba Safidon while she followed them on foot. Near the Majar of the Peer Baba, she saw some person including Boch, Ravi and Ashu at the spot along with her husband.

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Meanwhile, two or three other boys came on their motorcycle. She recognized the said three boys. They all forcibly pushed her husband and got him to sit in a white car and went away. Thereafter, they killed her husband in the car and after the car broke down, they left the body of her husband and ran away.

3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR. His name figures in the disclosure statement of his co-accused. PW1-Ashish (Annexure P-2), PW3-Suresh @ Bittu (Annexure P-3) and PW5-Dimple (Annexure P-4) have been examined as prosecution witnesses and have not supported the case of the prosecution. The CCTV camera from the place of the occurrence was also got examined from the witnesses and they have not identified the petitioner therein. As all the material witnesses have turned hostile, only 08 of the 32 prosecution witnesses had been examined so far and the petitioner was in custody since 29.06.2020, he was entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that serious allegations have been levelled against the petitioner and his co-accused. Therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 29.06.2020, only 08 of the 32 prosecution witnesses had been examined so far and that all the material witnesses have not supported the case of the prosecution.

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

6. Admittedly, the three material witnesses have been examined and have not supported the prosecution case. Whether the remaining

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evidence is sufficient to affix the liability upon the petitioner shall be adjudicated upon during the course of Trial. The petitioner is a first-time offender, in custody since 29.06.2020 and only 08 of the 32 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. As such, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Suresh @ Bittu son of Rohtash is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

30.10.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No