

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4063-2023
Date of Decision:-29.03.2023

AMIT KAUSHAL

... Petitioner

Versus

STATE OF HARYANA

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Deepak Singh Saini, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

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KARAMJIT SINGH, J. (Oral)

The petitioner has approached this Court seeking grant of regular bail in a case having FIR No.126 dated 26.02.2022 registered under Sections 120-B, 212, 302 IPC read with Section 34 IPC and Section 25 of Arms Act at Police Station Baldev Nagar, District Ambala.

The allegations in nut-shell are that complainant Babli made statement to the police that on 26.02.2022, she was present in her house along with her son Aman @ Gappu and some other family members and at about 12:30 pm Shivy, the nephew of Rita Sharma came there and told the complainant that Rita Sharma has sent him at the instance of co-accused

Bunty Kaushal who has called Aman @ Gappu to Mission Hospital, Ambala City. Then Aman @ Gappu left for Mission Hospital, Ambala City in his car and after about 2:00 p.m. the friend of her son informed her on telephone that Aman @ Gappu has been shot at by Bunty Kaushal near ICU Gate of Mission Hospital, Ambala City and thereafter Bunty Kaushal sped away from there in a car. Injured Aman @ Gappu was admitted in Civil Hospital, Ambala where he died while under treatment. The complainant made request to the police to take action against Bunty Kaushal, Shivi and Rita Sharma. Thereafter the petitioner was named by the complainant in her supplementary statement dated 27.2.2022. Then the petitioner was nominated as an accused and was arrested on 28.2.2022.

The counsel for the petitioner *inter-alia* submits that the petitioner has been falsely implicated in the present case at the instance of the complainant and is in custody since 28.2.2022 and during investigation no incriminating or objectionable articles were recovered from his possession. The counsel further submits that the petitioner was not named in the FIR, which was registered at the instance of the complainant wherein she alleged that it was only Bunty Kaushal who shot dead her son Aman @ Gappu. The counsel further submits that the alleged occurrence was not witnessed by the complainant and the employees of the concerned hospital who witnessed the occurrence has not supported the case of the prosecution while appearing in the witness box as PW-2 and that another eye-witness PW-6 Binni also failed to support the case of the prosecution. The counsel for the petitioner further submits that the trial is going on at a snail's pace and co-accused Rita Sharma who was named in the FIR has already been

enlarged on bail by this Court vide order dated 2.2.2023 in CRM-M-56886-2022 and prayed that the petitioner be also granted concession of regular bail.

The instant petition is resisted by the State counsel, who submits that petitioner conspired with Bunty Kaushal and in furtherance of said conspiracy Bunty Kaushal shot dead Aman @ Gappu. However, the State counsel on instructions from ASI Balkar Singh has not disputed the fact that the petitioner is in custody since 28.2.2022 and during investigation no incriminating or objectionable articles effected from the petitioner and further co-accused Rita Sharma was granted concession of regular bail by this Court vide order dated 2.2.2023. The State counsel has also not disputed the fact that PW-2 Barkha Ram and PW-6 Tejwinder Singh @ Binni have not stated anything against the present petitioner. The State counsel further apprised the Court that in all there are 42 witnesses out of which prosecution has examined 6 witnesses till date.

I have considered the submissions made by counsel for the parties.

Admittedly the petitioner was not named in the FIR which was got registered by the complainant alleging that her son Aman @ Gappu was shot dead by Bunty Kaushal. The only allegations against the petitioner are that he conspired with Bunty Kaushal being his real brother to commit murder of Aman @ Gappu. The complainant and other material witnesses are already examined and it appears that alleged eye-witnesses Barkah Ram and Tejwinder Singh @ Binni have not stated anything against the petitioner while appearing in the witness box. Admittedly the occurrence in question

was not witnessed by the complainant. The exact complicity of the present petitioner in the murder of Aman @ Gappu will be unfolded only after recording entire evidence of prosecution. Co-accused Rita Sharma who was named in the FIR has already been enlarged on bail by this Court. The petitioner is in custody since 28.2.2022 and during investigation no objectionable article was recovered from his possession. Further, it will take time for the trial to conclude as till date only 6 witnesses have been examined out of total 42 witnesses on behalf of prosecution, so no purpose is going to be served by prolonging the judicial custody of the petitioner.

Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

29.03.2023
Gaurav Sorot/Raman

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No