

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Neutral Citation No. 2023:PHHC:070157

CRM-M-6018-2023

Date of Decision: May 15, 2023

Yogesh Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sudhir Hooda, Advocate for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

Mr. Saurabh Dalal, Advocate for respondent No.2.

DEEPAK GUPTA, J.

Prayer in this petition is to cancel the regular bail granted to respondent No.2 Jaideep by this Court vide order dated 20.01.2023 in CRM-M-58528-2022 in case FIR No.240 dated 05.09.2021, registered at Police Station Dujana, District Jhajjar, under Sections 148, 149, 302, 307, 120-B, 201 of IPC and Section 25 of the Arms Act, 1959.

2. FIR was lodged on the complaint of Ram Bhagat, whose son Parveen @ Bodu was murdered on 05.09.2021. As per FIR, deceased Parveen @ Bodu had taken liquor shop at village Barhana, Dighal, Dujana and other places, wherein Pardeep @ Dhola used to be a partner. This time also, said Pardeep @ Dhola was putting pressure upon Parveen @ Bodu for partnership, which the deceased refused. On 05.09.2021, complainant was sitting near the house of Daya Nand, whereas his son Parveen @ Bodu was sitting in swift car bearing registration No. HR-51AT-6702 in Mukhtyariwali street, when 13-14 persons came there in three different vehicles and immediately after coming out started indiscriminately firing upon Parveen @ Bodu. Hearing the bullet shots,

complainant along with Anil S/o Mukhtyar, Ashok S/o Kishan Lal and others ran to save his son, at which the assailants fired shots towards Anil S/o Mukhtyar and Ashok, who had a narrow escape. The assailants fled away from the spot and in that process, complainant identified some of them to be Pardeep @ Dhola S/o Beda, Rambir S/o Rajpal, Ravinder S/o Rajpal, Jaldeep @ Kalu S/o Beda, Jaideep (respondent N: 2 herein) S/o Beda, Kuldeep S/o Beda and Ajay @ Rancho, who were accompanied by 3-4 persons. Complainant and his family members took Parveen @ Bodu to the hospital, where he was declared brought dead.

3. In the above said FIR, one Monu @ Mobilal was allowed regular bail vide order dated 17.11.2022 passed in CRM-M-5927-2022 (O&M) after observing that the only role attributed to him was that of finding out of the whereabouts of the deceased and informing the same to the main accused Pardeep @ Dhola. It was further observed that said Monu @ Mobilal was neither carrying any weapon nor had any mobile nor any recovery was effected from him. After making these observations, the bail was allowed to him.

4. Later on, Jaideep S/o Beda (respondent No.2 herein) applied for regular bail and it was represented before this Court that only role attributed to him was that he was part of conspiracy to murder the deceased and that similarly placed co-accused, namely, Monu @ Mobilal had already been allowed bail by this Court on 17.11.2022. On the basis of those contentions, bail to accused Jaideep (respondent No.2) was allowed by this Court vide order dated 20.01.2023 in CRM-M-58528-2022 (O&M).

5. Petitioner (herein) is the brother of deceased Parveen @

Bodu. He has prayed for cancellation of bail granted to respondent No.2, submitting that complainant Ram Bhagat has since expired. It is contended that respondent No.2 is specifically named to be one of the assailants in the FIR; that as many as 18 injuries upon the person of deceased Parveen @ Bodu were found as per postmortem report, out of which 13 injuries were entry wounds, reflecting that deceased was attacked by firing indiscriminately upon him.

6. Learned counsel for the petitioner contends that respondent No.2 managed to get the favourable bail order by misleading, concealing and submitting wrong facts. His case is totally distinguishable from that of co-accused Monu @ Mobilal because Monu @ Mobilal was not named in the FIR and was arrested on the basis of disclosure statement of co-accused, whereas respondent No.2 Jaideep is specifically named in the FIR and was one of the assailants, who had fired indiscriminately upon the deceased along with others.

7. Learned counsel appearing on behalf of respondent No.2 submits that there was no misrepresentation on behalf of respondent No.2 and that as per the police report filed therein, said respondent No.2 was part of conspiracy.

8. Learned State counsel has supported the petition for the cancellation of bail granted to respondent No.2 and has pointed out towards the status report filed by way of affidavit of Bharati Dabas, Additional Superintendent of Police, Jhajjar, District Jhajjar, as per which respondent No.2 Jaideep was involved not only in the conspiracy along with other co-accused, who had conducted the reiki of the place of occurrence and informed the main accused and had come to the place of

occurrence, but also fired upon the deceased. It is submitted that though respondent No.2 did not carry any mobile phone at that time, but he was present at the place of occurrence, where the deceased was fired upon and fled away in the car along with the other co-accused. It is submitted that same facts were disclosed in the reply filed in CRM-M-58528-2022 (O&M).

9. Having considered submissions of both the sides, this Court finds that petition for cancellation of bail granted to respondent No.2, deserves to be allowed.

10. As noticed earlier that co-accused Monu @ Mobilal was allowed bail on 17.11.2022 for the reason that his only role was to inform about the whereabouts of the deceased to the main accused and that there was no allegation that he had fired at the deceased or was carrying any weapon; nor any recovery was effected from him. Contrary to the same, respondent No.2 Jaideep is specifically named in the FIR, who had accompanied the other assailants and to had fired upon the deceased indiscriminately. The postmortem report revealing 18 injuries upon the person of the deceased including 13 entry wounds clearly reflects indiscriminate spray of bullets upon the deceased. This role of respondent No.2 Jaideep is entirely different from that of co-accused Monu @ Mobilal. However, while passing order dated 20.01.2023 in CRM-M-58528-2022, this Court was made to believe that the only attribution to him was to be part of conspiracy and that similarly placed co-accused Monu @ Mobil Lal has already been allowed bail. As this Court finds that bail to respondent No.2-Jaideep was granted on misrepresentation of facts, therefore, order dated 20.01.2023 passed in CRM-M-58528-2022

(O&M) is hereby recalled. The regular bail granted to respondent No.2 is hereby cancelled. Respondent-State is directed to take respondent No.2 Jaideep immediately in custody and send him to jail.

In view of the aforesaid discussion, the present petition is allowed.

May 15, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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