

CRM-M-6475 of 2023 (O&M) [1] 2023:PHHC:086633

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107+217 CRM-M-6475 of 2023 (O&M)
Date of decision:12.07.2023

Sombir ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Aman Pal, Advocate
for the petitioner.

Mr. Munish Sharma, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

CRM-28162-2023

Application is allowed as prayed for.

Testimonies of PW-8, Tejpal, PW-9, Chanchal widow of
Kuldeep and PW-10, Kamlesh are taken on record as Annexure P-8
(collectively).

Main Case

1. This is the second petition filed under Section 439 of the Code
of Criminal Procedure, 1973, seeking grant of regular bail to the petitioner in
case bearing FIR (Annexure P-1):-

FIR No.	Dated	Police Station	Sections
152	02.07.2019	Badhra, District Charkhi Dadri	302, 34, and 201 IPC

2. Version of the prosecution is that FIR (Annexure P-1) has been

registered on the complaint of Tejpai on the allegation that on 01.07.2019, his nephew Parveen and Sombir (present petitioner) visited his house. Both of them consumed liquor and had an altercation with his brother, Kuldeep, and demanded money from him. They threatened him that in case he does not pay, they will forcibly take possession of a portion of his agricultural land. While Sombir caught hold of his brother's hand, Parveen slit his throat with a sharp knife. The complainant rushed his brother to a hospital but he succumbed to the injuries on the way.

3. Counsel for the petitioner urges that offence under Section 302 IPC is not made out as there was no intention to commit murder. By referring to the testimony of the complainant-Tejpai, PW-8, counsel contends that there is an improvement in his version. Still further, he submits that after dismissal of the previous petition, an application under Section 311 Cr.P.C, was filed, which was allowed by the Trial Court, vide order dated 15.07.2022, (Annexure P-6), at page 39 of the paper book, whereby, both Tejpai and Chanchal, widow of the deceased, were permitted to be re-examined by the prosecution. Counsel submits that despite summoning both the crucial witnesses, they have not appeared for re-examination. He has made a reference to the affidavit of Superintendent of Police, Charkhi Dadri, to submit that police officials have recorded the statement of both the said witnesses on 18.04.2023 (Annexure R-1) to the effect that they do not want to get themselves re-examined. Counsel asserts that the petitioner, who is in custody since 02.07.2019 and is not involved in any other criminal activity, deserves to be enlarged on bail. Still further, he submits that during

pendency of the trial, petitioner was granted interim bail for 20 days and he surrendered back on the expiry of the said period.

4. Opposing the petition, State counsel, upon instructions from ASI Vishal, submits that there are categoric allegations against the petitioner, who was equally responsible for the murder of Kuldeep. He submits that considering the grave and serious allegations against the petitioner, he is not entitled to the discretionary relief. Still further, upon instructions, State counsel submits that murder seems to be committed in a professional manner and the weapon of offence has been recovered from the co-accused, Parveen. As per his instructions, 15 out of total 19 prosecution witnesses have been examined.

5. I have heard counsel counsel for the parties and considered their respective submissions.

6. After dismissal of the first petition in October, 2021 preferred by the petitioner, all the vital prosecution witnesses have been examined. Despite order passed by the Trial Court for re-examination of the two material witnesses, they are not stepping into witness box. Trial Court is yet to determine the guilt/innocence of the accused. Petitioner has undergone a custody of more than 48 months and the trial is not likely to conclude in the near future. Moreover, there is nothing to show that the petitioner misused the concession of interim bail. Considering the above circumstances, this Court is of the view that the petitioner deserves to be enlarged on bail during pendency of the trial.

7. Without advertng to the merits or demerits of the arguments addressed, petition is allowed and petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 12, 2023
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No