

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

213

**CRM M-11623 of 2023
Date of Decision: 31.08.2023**

Mohit

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate
Mr. Rajat Sheokhand, Advocate and
Mr. Sourabh Sheoran, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Sushial Jain, Advocate
for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has moved the present petition under Section 439 Cr.P.C. with a prayer to grant the concession of regular bail to him in case FIR No. 252 dated 26.06.2022 under Section 302 IPC registered at Police Station Murthal, District Sonapat, in which Sections 148, 149, 120-B, 201, 285, 34 IPC and Section 25 of Arms Act were added later on by the police in the final report under Section 173 Cr.P.C.

2. The FIR in the present case was got registered by Jasbir son of Krishan by alleging that his brother Jaideep @ Bhapoli was working as Incharge in the capital Ultimate Stock in the sand mine. On 26.06.2022, he received an information that his brother Jaideep

had been murdered by someone and he reached at the spot. The dead body of his brother Jaideep was lying at the place of the occurrence and many injuries were there on his person. The complainant alleged that the murder of his brother has been committed by some unknown persons by causing him injuries and action may be taken against them.

3. During the course of investigation of the present case, on 01.07.2022, Jasbir complainant moved another application, wherein, he stated that he and his family members had made inquiry on their own level and were satisfied that his brother was murdered by Mohit @ Makhi, Rohit, Mohit, Kattu @ Sanjeet, Vicky and their accomplices, as his brother had stopped them from taking sand from their mine and also due to some old enmity.

4. Learned senior counsel for the petitioner submits that it was a case of blind murder and the FIR was initially registered against unknown assailants. Even, there was no averment in the FIR, which could even remotely suggest the involvement of the petitioner in the present crime. However, after 04 days of registration of the FIR (Annexure P-1), an application was moved by the complainant on 01.07.2022 by alleging that the petitioner and certain other persons had committed the murder of his brother Jaideep by causing him injuries. He further contends that even as per the said application, the involvement of the petitioner was doubtful. Learned senior counsel

for the petitioner contends that during the course of investigation, the statements of certain accused were recorded and the petitioner was named as one of the assailants in the present case. However, the admissibility of the said disclosure statement suffered by the co-accused would be subject matter of trial before the trial Court. Learned senior counsel further submits that the petitioner was not even present at the place of occurrence as Chitransh son of nephew of the petitioner was admitted in Umda Krishna Mother Baby hospital, Swaroop Nagar, Delhi and the petitioner was present there to see him. Apart from that, the petitioner was having very friendly and cordial relations with the family of the deceased as well as the complainant and he had been falsely involved at the instance of Meena, real sister of Jaideep. In fact, Meena was inimical towards the petitioner due to some financial transactions and had also served a legal notice dated 13.12.2022 (Annexure P-5) on him. Learned senior counsel further contends that the petitioner is in custody since 07.07.2022 and the charges have been ordered to be framed against him and the case is at the stage of prosecution evidence. Learned counsel further contends that in the present case, the petitioner was initially named on the basis of the statement made by Jasbir, complainant, who has now been examined as PW1 and he did not support the case of the prosecution. Thus, the prosecution may not be in a position to prove the offence

against him and he has been falsely involved in the present case and he deserves the concession of bail by this Court.

5. On the other hand, learned counsel for the State of Haryana has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that the petitioner was member of the unlawful assembly, which had brutally killed Jaideep, since deceased. Even, the petitioner had inflicted injuries to the deceased with baton and after its use, the petitioner had handed over the said baton to co-accused Rohit. However, no recovery was effected from the petitioner and she was not in a position to dispute the fact that PW1 Jasbir has turned hostile.

6. I have heard learned counsel for the petitioner and perused the record.

7. It is apparent from the record that the petitioner is in custody since 07.07.2022 and had undergone a period of more than 01 year and 01 month. Apart from that, the entire case was based primarily on the application dated 01.07.2022 moved by Jasbir, but now Jasbir has refused to support the case of the prosecution. Still further, three material witnesses of the prosecution have already been examined and the respondent has not placed on record any material to show that the petitioner may abscond from the process of law or may influence the witnesses of the prosecution.

8. In view of the above discussion, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

31.08.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

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