

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

**CRM-M-13490-2023**

**Date of decision : 22.03.2023**

**Sourabh**

**.....Petitioner**

**versus**

**State of Haryana**

**..... Respondent**

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

**\*\*\***

Present :- Mr. Punit Malik, Advocate  
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

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**RAJESH BHARDWAJ, J. (Oral)**

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.122 dated 25.06.2020, under Section 302 of IPC and Section 25 of Arms Act, registered at Police Station DLF Phase 1, Gurugram.

Adumbrated facts of the case are that the FIR was registered on the statement of complainant namely, Rahul wherein he deposed that on 24.06.2020 at around 04:00 PM, Sourabh came and took his brother along and at about 06:00 PM, he saw that his brother Deshraj and Sourabh were consuming alcohol at the *kacha rasta* of the Gawal Pahari. After seeing them drinking, he passed by and then he saw Sourabh take out his knife from his pocket and said that he is going to kill someone today but he ignored the same. After about two hours when his brother did not return home, he found his brother Deshraj lying in the pool of blood. On seeing, he found that he had already

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died due to excessive blood loss. It was suspected that Sourabh had killed his brother with the knife. Request was made to take legal action against the accused. On the basis of his complaint, FIR was registered and the investigation commenced. The investigating agencies proceeded with the investigation by recording statements of witnesses and the petitioner was arrested on 26.06.2020. Postmortem of the dead body was conducted. The petitioner approached the Court of learned Additional Sessions Judge, Gurugram praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge declined the same vide order dated 07.02.2023. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been vehemently contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He has submitted that the case of the prosecution is totally based on the circumstantial evidence. He submits that the author of the FIR is the brother of the deceased who allegedly saw the petitioner drinking with his deceased brother Deshraj. The petitioner was saying that he would be going to kill someone with the knife he was holding, however, he ignored the same. He has submitted that the conduct of the complainant in itself is highly abnormal and thus, cannot be believed. He further submits that the investigating agencies have implicated the petitioner on the basis of the last seen and thereafter, the alleged recovery of the knife has also been shown to have been made on the basis of disclosure statement suffered by the petitioner. He submits that as per FSL report, it is said that the blood group of the deceased matched with that of the blood stains recovered

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from the clothes of the petitioner, however, the same are totally fabricated evidence and the chain of the circumstantial evidence produced is totally incomplete and thus, the false implication of the petitioner is writ large. He has further submitted that the petitioner has no criminal antecedents. He further submits that though the petitioner was earlier prosecuted in one more FIR for the offence under Sections 323, 506 of IPC, however, he is on bail in the same. He submits that the material witnesses already stand examined and the petitioner is behind bars since the date of his arrest and thus, he deserves to be granted regular bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the complicity of the petitioner is evident in this offence. He submits that the complainant is the witness of the last scene who saw the petitioner in the company of his deceased brother and hardly two hours thereafter, his brother was found murdered. He however submits that the weapon of offence was recovered on the disclosure statement made by the petitioner and as per the FSL report, the blood group also matched with that of the deceased and the blood stains recovered from the clothes of the petitioner. He submits that out of 20 prosecution witnesses, 10 witnesses already stand examined by the trial Court. He has further submitted that no case for grant of bail is made out.

Heard. Evidently, the case of the prosecution as submitted before this Court is based on circumstantial evidence. The prosecution has relied upon the last scene evidence of the complainant and the recovery made on the basis of disclosure statement of the petitioner. Out

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of 20 prosecution witnesses, 10 witnesses already stand examined including the complainant. Thus, the petitioner who is behind bars from last about 2½ years would not be in a position to tamper with the evidence as the material witnesses have already been examined.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

( RAJESH BHARDWAJ )  
JUDGE

22.03.2023  
*m. sharma*

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