

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15444-2022

Reserved on: 10.10.2023

Pronounced on: 16.10.2023

Sunny Dev alias Kukki

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Sanjiv Sheoran, Advocate, for the petitioner.

Mr. P.K. Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 439 Cr.PC is for grant of regular bail in case FIR No.693 dated 06.06.2017 registered at Police Station Panipat City, District Panipat under Sections 302/120B/34 IPC and Section 25 of the Arms Act, 1959.

2. FIR was lodged on the statement Rajo @ Rajdevi, as per which her nephew Amarjeet son of Ranbir had been named in the murder of brother of accused Sunny Dev @ Kukki (*petitioner herein*). Because of this reason, petitioner was having enmity with the family members of the complainant. Said petitioner along with Sanjeet @ Shakti and several others committed murder of Kadam Singh, brother of Amarjeet at Gohana. In that case, petitioner is in custody, whereas Sanjeet @ Shakti is at large. It was alleged further that on 06.06.2017, complainant with her brother-in-law (*Dewar*) Satbir had come to Panipat for pursuing the case of Amarjeet. At about 12-12.30 PM, as they reached in front of Central Bank after attending

the Court proceedings, a boy came from the side of Bank holding a weapon and covering his mouth and spread bullets from his weapon at Satbir, who fell down. The assailant fled away. At some distance, his other accomplices were standing with motorcycle and the assailant fled with them. It was alleged that complainant was sure that because of the previous enmity, accused-Sunny Dev @ Kukki i.e., petitioner had got Satbir murdered from his accomplice Sanjeet @ Shakti and others.

3. It is contended by ld. counsel that petitioner has been falsely implicated; that no injury to the deceased is attributed to the petitioner. It is further submitted that as per allegations, petitioner along with Ashok @ Hutter, Rakesh, Amit @ Mitta and Sanjeet @ Shakti had conspired to commit the murder of Satbir. It is pointed out by ld. counsel that on the date of occurrence, petitioner was in jail in another case. Still further, it is contended that petitioner is in custody for the last more than 6 years and that trial will take long time to conclude and so he be allowed regular bail. Although, petitioner has given details of 7 cases, in which is he involved, in para No.18 of the petition, but ld. counsel for the petitioner has referred to decisions of Hon'ble Supreme Court rendered in ***"Prabhakar Tewari Vs. State of UP and another"*** 2020(1) RCR (Criminal) 831 and ***"Maulana Mohd. Amir Rashadi Vs. State of UP and another"*** 2012(1) RCR (Criminal) 586, to contend that the allegations of grave and serious offence, and pendency of several criminal cases against the petitioner cannot be basis to refuse bail.

4. Opposing the bail petition, it is contended by ld. State counsel that petitioner has been found to be part of conspiracy to commit the murder of Satbir. Attention is drawn towards the criminal antecedents of the

petitioner, inasmuch he is involved in as many as 13 cases as per the details given in para No.3 of the latest status report and that 7 of those cases pertain to murder. By drawing attention towards the custody certificate, though it is conceded that petitioner is in custody for the last 6 years, 2 months and 27 days, but attention is also drawn towards the fact that petitioner has already been convicted in case FIR No.303 dated 22.05.2016 under Sections 302/120B/202/34 IPC at Police station City Gohana, Sonapat and in another case under Section 174A IPC, though in 8 other cases, he has since been acquitted. By emphasizing on the criminal antecedents of the petitioners, prayer is made for dismissal of the petition.

5. I have considered submissions of both the sides and have appraised the record.

6. It is conceded cases of the prosecution that on the date of occurrence, when Satbir was murdered, petitioner was in custody in some other case. The attribution to the petitioner is that he is part of conspiracy along with co-accused so as to murder Satbir. As on 09.10.2023, the period of custody of the petitioner in the present case is 6 years, 2 months and 27 days. It is no doubt true that petitioner is involved in numerous other cases and mostly of grave offence, the question is whether that can be a reason to refuse bail to the petitioner, particularly keeping in view the attribution to the petitioner in the present case and his long incarceration and when trial is likely to take long time.

7. In the case of *Maulana Mohd. Amir Rashadi (Supra)*, similar objection was raised before Hon'ble Supreme Court. It was held as under: -

“It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

8. Similarly in the case of ***Prabhakar Tewari (Supra)***, Hon’ble Supreme Court has observed as under: -

“The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail.”

9. It is, thus, clear that the allegation of grave and serious offence or the pendency of several other criminal cases against the accused-petitioner, cannot be the basis to refuse bail.

10. Having regard to all the facts and circumstances as noted above and the long incarceration of the petitioner in custody and the fact that trial is likely to take time to conclude, but without commenting anything further on merits of the case, petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

11. Allowed.

16.10.2023

Vivek

**(DEEPAK GUPTA)
JUDGE**

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No