

CRM-M-14703-2023 (O&M)

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

Sr. No.208

CRM-M-14703-2023 (O&M)

Reserved on : 08.05.2023

Pronounced on: 16.05.2023

Joginder Khatana

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ashok Aggarwal, Sr. Advocate with
Mr. Manoj Kaushik, Advocate
Mr. Abhilaksh Grover, Advocate and
Mr. Nilesh Bhardwaj, Advocate, for the petitioner.

Mr. Himmat Singh, Addl. AG, Haryana

Mr. Gautam Dutt, Advocate, for the complainant.

SUDHIR MITTAL, J.

One Sukhbir Singh was murdered by armed gunmen inside a showroom in Gurugram resulting in registration of FIR No.216 dated 01.09.2022 at Police Station Civil Lines Gurugram, District Gurugram, under Sections 109, 302, 120-B & 201 IPC and Section 25 (1-B) (a) Arms Act, 1959.

2. The aforementioned FIR was registered on the complaint of Anurag son of the deceased. It was stated that Sukhbir Singh had gone to

the market to buy clothes alongwith his cousin-Rajender. Said Rajender informed him that at around 3.30 p.m., 4-5 persons had fired at his father inside the showroom and that he was taking him to Aarvy Hospital. On reaching Aarvy Hospital, he found that his father had died. One Chaman was stated to be the suspect as he was not on good terms with his father. He was the brother of the second wife of deceased.

3. Statement of Rajender was recorded the same day and he too named Chaman apart from four others. Chaman was arrested on 22.09.2022 and on the next date i.e. 23.09.2022, he suffered a disclosure in which reasons were given for his animosity against the deceased. He stated that the deceased was known to his family and taking advantage of this fact, he deprived his father of a valuable piece of land measuring two acres and made a lot of money for himself. He also enticed his elder sister-Pushpa and solemnized a love marriage with her. At that point in time, he was about 14-15 years old. He came in contact with one Vikram @ Papla Gurjar who became a gangster later on and promised to help him in eliminating Sukhbir Singh. Details of acquisition of arms & ammunition and vehicles were also given and accomplices were named. On 24.09.2022, he got a second disclosure statement recorded in which certain improvements were made. Third disclosure statement was recorded on 28.09.2022, wherein, the petitioner was named as a co-accused for the first time. Regarding him, it was stated that he too, bore a grudge against Sukhbir Singh on account of political differences. He came in touch with Chaman sometime in the year 2014-15 and that they normally met at Chaayos Café in M3M Urbana

Mall, Gurugram. During the Vidhan Sabha elections in 2019, the petitioner had allegedly contacted Chaman and had asked him to kill both Sukhbir Singh and his wife-Pushpa because he suspected that Sukhbir Singh would contest the election. In the elections, the elder brother of the petitioner contested and Sukhbir Singh was instrumental in his loss. Thereafter, he was paid around Rs.27,00,000/- in cash to buy arms and arrange shooters. As a result of the third disclosure, the petitioner was arrested the same day.

4. Learned senior counsel for the petitioner has argued that according to the challan, the only evidence against the petitioner is the disclosure statement of co-accused Chaman. No recovery, whatsoever, has been effected pursuant to the said disclosure which might incriminate the petitioner and thus, the said evidence is no evidence in the eyes of law. The petitioner has been in custody since 28.09.2022. The trial is not likely to be concluded at an early date as even, charges have not been framed as yet. The petitioner does not have any criminal antecedents. Keeping in view the evidence available on record, the period of custody undergone as well as the fact that the trial is not likely to be concluded at an early date, the petitioner may be granted regular bail.

5. Learned State counsel has argued that there is evidence on record by way of disclosure of co-accused Chaman that the petitioner bore a grudge against the deceased on account of political differences and also because he was instrumental in the defeat of the petitioner's brother during the Vidhan Sabha elections in the year 2019. There is also evidence by way of CCTV footage from Chaayos Café, ten days prior to

the date of the incident, wherein, the petitioner can be seen sharing the table with co-accused Chaman. This conclusively shows that Chaman was in contact with the petitioner. Motive for the murder existed. The fact that money was paid by the petitioner to Chaman is proved from the statement of one Jitender @ Jeete through whom Chaman had come into contact with the petitioner and who has come forward after the murder to deposit a sum of Rs.6,00,000/- saying that this money had been entrusted by Chaman and he had received it from the petitioner. Thus, the involvement of the petitioner has been clearly established. If, he is released on bail at this stage, he may influence the witnesses. For these reasons, the petitioner does not deserve to be granted regular bail.

6. Learned counsel for the complainant has submitted that he adopts the submissions made by the learned State counsel. In addition, it has been argued that the involvement of the petitioner is also established through the statement of one Sanjay @ Bablu who had said that the petitioner used his mobile phone to talk to Chaman and that he took regular updates from him regarding the killing. He has also stated that whenever, the petitioner had to meet Chaman, message was conveyed through him and they used to meet at Chaayos Café. The petitioner and Chaman infact met on 23.08.2022 at Chaayos Café and for this meeting also, Chaman had been informed by said Sanjay @ Bablu. That apart, two mobile phones had been recovered from the petitioner and call detail records establish that he was in regular touch with both Sanjay @ Bablu and Chaman. Thus, there is ample evidence on record showing that

the petitioner provided money to Chaman for purchase of arms and ammunition which were used to commit the murder.

7. Regarding the submission made on behalf of the State and the complainant that the petitioner had a motive because of political differences, learned senior counsel for the petitioner has submitted that elections to the Vidhan Sabha took place in the year 2019. Allegedly, at that time, the brother of the petitioner was defeated due to the activities of Sukhbir Singh. This is purely an allegation which has arisen out of the disclosure of a co-accused and is no evidence in the eyes of law. Moreover, a person cannot be expected to carry a grudge for four long years, especially when, viewed in the backdrop of photographs annexed as Annexure P-7 which show that deceased was on friendly terms with the petitioner and used to visit him on occasions such as marriage etc. Regarding deposit of Rs.6,00,000/- by Jitender @ Jeete, it has been submitted that his statement alone would not establish that the money had been paid by the petitioner. So far as the statement of Sanjay @ Bablu is concerned, it has been argued that his statement does not establish a direct link between the petitioner and Chaman. His call records would at best show that he viz. Sanjay @ Bablu had been in contact with Chaman and nothing more. There is no evidence that the petitioner was in contact with said Sanjay @ Bablu. The CCTV footage of Chaayos Café also cannot prove the involvement of the petitioner in this murder as at best, it can only show that the petitioner had met Chaman few days before the murder.

8. For deciding this case, I do not intend to examine the evidentiary value of the various bits and pieces of evidence collected by the police. Taken cumulatively, it emerges that Sukhbir Singh was allegedly murdered by Chaman and his accomplices. The act was done by using fire arms. Chaman was in contact with the petitioner as is evident from the CCTV footage dated 23.08.2022 taken from Chaayos Café. This shows that the main accused had met the petitioner just eight days before the murder. Suspicion is thus cast on the petitioner. Sanjay @ Bablu has stated that the petitioner used to call Chaman quite often and Jitender @ Jeete has stated that money was received by Chaman from the petitioner. Resultantly, the petitioner gets projected as the master-mind. Motive is mentioned in the disclosure of Chaman and the same cannot be brushed aside, merely because, there are photographs showing that the petitioner and the deceased used to meet socially. It has not even been remotely suggested that the petitioner and the deceased were not political rivals and it is common for political rivals to meet each other socially. Of course, guilt or innocence would be established only after the trial.

9. Under the aforementioned circumstances, it would not be prudent to grant regular bail to the petitioner at this stage because charges have not been framed and examination of PWs has not commenced. Likelihood of influencing the witnesses exists. The petitioner has been in custody since 28.09.2022 and the period of custody is not inordinately long so as to entitle him to the concession of regular bail. The mobile phones recovered from the petitioner are presently being forensically

examined and the same might give further clues regarding the involvement of the petitioner.

10. For the foregoing reasons, the petition is dismissed. The petitioner shall, however, be at liberty to file a fresh application for grant of regular bail after receipt of report of forensic examination of his mobile phones.

11. Nothing stated hereinabove shall be deemed to be an opinion on the merit of the case, especially because, the evidentiary value of evidence available against the petitioner has not been gone into.

(SUDHIR MITTAL)
JUDGE

16.05.2023
Ramandeep Singh

Whether speaking / reasoned	Yes
Whether Reportable	Yes