

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

CRM-M-16953-2023

Date of Decision: 18.04.2023

Daulat Ram

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vishal Yadav, Advocate, for the petitioner.
Mr. B.S. Virk, Deputy Advocate General, Haryana.
Mr. Sahil Chaudhary, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.409 dated 10.09.2019, registered under Sections 148, 149, 302, 307 IPC and Section 25 Arms Act, 1959, at Police Station Dabua, District Faridabad.

Adumbrated facts of the case are that the complaint was lodged by the complainant, namely, Ravinder son of Dhan Singh, wherein, it was alleged that on 09.09.2019 at about 10:30 p.m., he was present at home, Rohit came there for taking his brother Naresh with him. His brother Naresh told him that a quarrel had taken place with some persons at vegetable market. Thereafter, his brother Naresh and Rohit reached in the office of Banwari and Chotu. Due to apprehension, the complainant also reached there. On reaching there, he saw his brother was lying in the mud and Netra Pal, Banwari, Lutas, Chotu Mandiwala, Satish Garhwali, Dolat Pandit (petitioner), Chalia and Sunny Sardar were beating his brother Naresh with iron rods and dandas. The complainant tried to intervene, on which the assailants fired a shot upon him with a country made pistol with an intention to kill him. Thereafter, they fled away. He took his brother Naresh to

Escorts Fortis Hospital for treatment, however, the Doctors declared him brought dead. Both the hands and legs of his brother were broken. It was alleged that all the accused in connivance with each other had killed his brother. Request was made to take legal action against the culprits. On the basis of complaint, a formal FIR was lodged and investigation commenced. Postmortem of the deceased was conducted and the statements of the relevant witnesses were recorded. The accused were arrested and on the completion of the investigation, challan was presented. The present petitioner was arrested on 12.09.2019. He approached the Court of learned Addl. Sessions Judge, Faridabad for grant of bail, who, after hearing the parties, declined the same vide order dated 08.02.2023. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that it was a blind murder as the complainant is not the eyewitness and hence, he has been planted as eyewitness by the Investigating Agency subsequently. He submits that in all there are nine accused, out of which, five accused are already on bail. He submits that the similarly situated co-accused Kailash @ Luttas, Sunil Sachdeva @ Sunny, Panji, Vinod and Rohit had already been granted bail by this Court. He submits that though the complainant did not support the case of the prosecution qua accused Kailash @ Luttas, however, it is apparent that he was duly named in the FIR and later on the eyewitness intentionally did not support the case of the prosecution only qua him. He submits that the deceased was of a criminal nature, who was in the black list of two Police

Stations and thus, he was eliminated by some unknown persons. He has drawn the attention of this Court to the cross-examination of complainant Ravinder, wherein, suggestion was given by the defence that deceased, namely, Naresh was in the black list of two Police Stations namely Debua and Saran. He submits that the petitioner is behind bars since 12.09.2019 i.e. more than a period of three years. He has submitted that till date the prosecution has not examined even half of the witnesses cited and thus, there is a clear violation of the right to speedy trial of the petitioner. He submits that though the petitioner is being prosecuted in 7 other cases, however, he has already been acquitted in three of the cases. He further submits that in the facts and circumstances, the petitioner deserves to be granted bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and on instructions from SI Krishan, has submitted that the petitioner is duly named in the FIR. He has submitted that the petitioner is a habitual offender. He submits that the case of the prosecution rests upon the eyewitness account. He further submits that co-accused Kailash @ Luttas was granted bail as the complainant did not support the case of the prosecution qua him. He also submits that other co-accused, who have been granted bail were named subsequently and hence, they were granted bail. However, he submits that out of 27 prosecution witnesses so far only 12 witnesses have been examined by the prosecution. He further submits that out of 9 accused under trial, 5 accused are already on bail. He has further submitted that the petitioner was facing trial in 7 other cases, out of which he has been acquitted in 3 cases.

Heard.

Evidently, the petitioner is behind bars since 12.09.2019 and meaning thereby, he has completed more than 3 years behind the bars. Five of the co-accused have already been enlarged on bail. The defence had given suggestion that the deceased had a criminal background and had enmity with number of other persons. Besides this there is no gainsaying that the petitioner is facing trial from the last more than three years and till date the prosecution has examined only 12 witnesses out of total 27 witnesses. Every accused has a right of speedy trial. The veracity of the allegations would be evaluated by the trial Court only after appreciation of complete evidence to be led by both the parties before it. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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.

18.04.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No