

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1096-2023 (O & M)
Date of decision: 20.10.2023

Master 'D' (Deepak alias Billa)

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Mohit Bishnoi, Advocate, for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)**CRM-18813-2023**

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 141 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed. The delay of 141 days in filing the present revision petition is condoned.

CRR-1096-2023

The challenge in the present petition is to order dated 01.09.2022 passed by the Additional Sessions Judge, Fatehabad whereby the order dated 27.07.2022 passed by the Juvenile Justice Board, Fatehabad declining the concession of regular bail to the petition in case FIR No.245 dated 07.10.2021 under Sections 147, 148, 302, 120-B IPC and Section 25 of the Arms Act, 1959 P.S. Bhuna, Distt. Fatehabad (Hry.), has been upheld.

2. The brief facts of the case are that one Somnath got recorded his statement to the effect that he had two sons, namely, Rajesh alias Raja, (elder son) and Pankaj Kumar (deceased, younger son). On 06.10.2021, he alongwith his younger son-Pankaj Kumar were coming back to their village in their car bearing No.HR-23G-4184. At about 10.15 p.m., when they reached near the plot of Balraj, then suddenly, the tyre got punctured. When his son-Pankaj Kumar got out of the car to check the same, at that time, 2-3

unknown persons came on a motorcycle. One of them was wearing helmet and had a pistol in his hand. They all started quarreling with his son and started firing upon his son with the pistol. Out of fear when his son ran towards the plot of Balraj through the fields, the unknown persons started firing indiscriminately upon him due to which his son fell down. On his raising hue and cry, the villagers came to the spot and they got his son admitted at Government Hospital, Bhuna, where his son was declared dead.

Based on these allegations, the present FIR came to be registered.

3. The learned counsel for the petitioner contends that no person is named in the FIR. Thereafter, on 09.10.2021, the statement under Section 161 Cr.P.C. of Rajesh @ Raju son of Somnath was recorded wherein he stated that on account of a dispute regarding running of the liquor vends, his brother-Pankaj Kumar had been murdered by Vikram Nain son of Jaswant Singh, Jagjit @ Judge son of Balvinder, Vikram Bhambhu son of Uggarsain, Karamjit @ Golu son of Robinder Singh, Sanjay @ Sanju son of Satpal, Aman Malik son of Satyawan, Karan Singh son of Gurjit and Hanuman @ Doctor son of Om Parkash. The petitioner has not been named. The name of the petitioner figured in the disclosure statements of Karamjeet @ Golu and Sanjay @ Sanju who disclosed that the present petitioner in conspiracy with co-accused Parveen @ Pinni (since granted bail vide order dated 19.10.2023 passed in CRM-M-47262-2023) had loosened the valves of the tyres of the car of deceased-Pankaj Kumar. Subsequently, the petitioner was arrested and during the course of the Trial, the statement of Somnath (complainant) was recorded wherein he has admitted that no Test Identification Parade had

Court for the first time that day through Video Conferencing. He contends that this identification for the first time has no evidentiary value. He further contends that only a motorcycle has been recovered from the petitioner which is not in his ownership. As the petitioner was in custody since 28.10.2021 and only 05 of the 42 prosecution witnesses had been examined (including two material witnesses), the Trial was not likely to be concluded anytime soon, and therefore, the petitioner was entitled to the grant of bail, *moreso*, when two similarly situated co-accused, namely, Sukhjinder @ Sukha @ Sukhwinder and Parveen @ Pinni had been granted the concession of bail and the petitioner was only around 16 years old at the time of the alleged occurrence.

4. The learned counsel for the State admits that no one is named in the FIR. During the course of investigation, the name of the accused came up. Various recoveries of weapons, mobile phones, etc. have been effected from the co-accused. He, however, admits that so far as the petitioner is concerned, he is not named in the FIR nor in the statement under Section 161 Cr.P.C. of Rajesh @ Raju, brother of the deceased but is named in the disclosure statement of a co-accused, namely, Karamjit @ Golu and Sanjay @ Sanju. He also admits that other than a motorcycle no other recovery has been effected from the petitioner.

5. I have heard the learned counsel for the parties at length.

6. Admittedly, the petitioner is not named in the FIR or in the statement under Section 161 Cr.P.C. of Rajesh @ Raju @ Raja, brother of the deceased-Pankaj Kumar. Two main witnesses, namely, Somnath (complainant) and Rajesh @ Raju @ Raja stand examined. The co-accused,

been granted bail vide orders dated 15.03.2023 and 19.10.2023 respectively.

Whether the evidence against the petitioner is sufficient to affix liability upon him would be a matter of adjudication during the course of Trial. The petitioner is in custody since 28.10.2021 and only 05 of the 42 prosecution witnesses have been examined so far. As such, the Trial of the present case is not likely to be concluded anytime soon.

7. In view of the aforementioned circumstances, no useful purpose would be served by keeping the petitioner incarcerated.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the order dated 01.09.2022 passed by the Additional Sessions Judge, Fatehabad whereby the order dated 27.07.2022 passed by the Juvenile Justice Board, Fatehabad, has been upheld, is hereby set-aside. The petitioner, namely, Master 'D' (Deepak @ Billa) is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case other than the case(s) referred to hereinabove.

10. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

11. In addition, the petitioner (or someone else on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the

Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

October 20, 2023

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