

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(227)

2023:PHHC:076337
CRM-M-25654-2023
Date of Decision: 25.05.2023
--Petitioner

Rajiv Kumar

Versus

State of Haryana

--Respondent

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

Present:- Mr. Gaurav Datta, Advocate for the petitioner.

Mr. Kirpal Singh, AAG, Haryana.

Mr. D.S. Virk, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.663 dated 22.8.2022 under sections 147, 148, 149, 285, 323, 325, 341, 427, 506 and 120-B IPC and Section 25 of Arms Act (later on added sections 307, 379-B IPC), registered at Police Station, City Sirsa, District Sirsa.

As per factual matrix, a complaint was lodged by Manita Maheshwari wife of Prahlad Singh, wherein it was alleged that on 22.8.2022 at about 8.30 AM her husband Prahlad Singh was going on car. On the way one tractor-trolley came in front of his car and her husband stopped the car. Rajiv Chandak i.e. the present petitioner, Sumit Chandak, Om Parkash and 8-9 other persons started firing. The car of her husband was damaged and he was given beatings by these persons. The accused in connivance with Pawan Maheshwari opened attack on the husband of the complainant in order to kill him. A request was made to take legal action against the culprits.

On the basis of the complaint, FIR was registered and investigation commenced. During investigation total 10 accused were found to have been involved in the alleged offence. Petitioner was arrested on 18.4.2023. He approached the court of learned Sessions Judge, Sirsa for grant of bail, however, after hearing the parties, the same was declined vide order dated 6.5.2023. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that petitioner was not even present at the time of occurrence. He submits that the alleged occurrence had taken place on 22.8.2022 and the FIR was lodged for the offence under sections 147, 148, 149, 285, 323, 325, 341, 427, 506 IPC, however, in a due deliberated manner in March, 2023 the offence under sections 307 and 120-B IPC were added in the FIR and the petitioner was roped in the offence under Section 120-B IPC. It is submitted that 7 co-accused in this case have already been granted anticipatory bail by this court, whereas petitioner, who had no complicity and against whom no prima facie case is made out, has been arrested in a clandestine manner. It is submitted that petitioner has no criminal antecedents and in the facts and circumstances of the case he deserves to be granted bail.

Learned counsel for the complainant has vehemently opposed the submissions made by counsel for petitioner. He submits that complicity of the petitioner is duly proved in this case. It is submitted that husband of the complainant had been given multiple injuries and petitioner was key conspirator in this case. He submits that petitioner does not deserve the concession of bail.

On the other hand, learned State counsel on instructions from ASI Hanuman has vehemently opposed the submissions made by counsel for petitioner. He submits that offence under sections 307, 120-B IPC were added in the FIR subsequently. It is submitted that 7 co-accused have been granted the benefit of bail by this court. It is further submitted that investigation in this case is complete and investigating agency is in a position to file challan against the accused persons.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 18.4.2023. The offence under sections 307, 120-B IPC were added in the FIR subsequently. Complicity of the petitioner has been alleged for the offence under Section 120-B IPC. Out of the total 10 accused, 7 have already been granted the benefit of anticipatory bail by this court. As per information provided by learned State counsel investigation in this case is complete and challan is yet to be filed. There is nothing on record to show that petitioner has any criminal antecedents.

The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on her furnishing bail/surety bonds subject to the

satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

25.05.2023

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No