

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

CRM-M-25718-2023

Date of Decision:18.08.2023

Divay Kumar @ Deepanshu

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Balkar Singh, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 Cr. PC with a prayer to grant regular bail to him in case FIR No.64 dated 16.02.2021 under Sections 148, 302, 120-B,449 and 149 of IPC (Section 148, 149 and 120-B added later on) and under Section 25 of the Arms Act, registered at Police Station Urban Estate Rohtak, District Rohtak (Annexure P-1).

2. The FIR in the present case was got registered on the basis of the statement made by Pushpender Son of Sh. Suresh Kumar. As per the complainant, his cousin Ravi (deceased) had gone for outing to Chandigarh with his friend Rahul son of Kalu Ram two days ago. On that day, he received a information that Ravi had been murdered in Sector-6 near Paul Garden, by use of fire arm. The complainant immediately reached at the spot and came to know that Ravi had came alongwith his friend Rahul at about 09:00 O'Clock to stay in the hotel. At about 12.00 O'clock in the mid night, Rahul left from the hotel and Ravi stayed in room No.206 of the hotel and Naveen was sleeping in

his cabin. At about 03:00 AM, three boys came in the hotel and one of them showed the pistol to him and two other boys brought Ravi from his room. Thereafter, he heard a noise of firing and saw that dead body of Ravi was lying on the eastern edge of the road and he had received fire arm injuries. As per the complainant, Ravi had been murdered by some unknown persons due to some enmity.

3. Learned counsel for the petitioner contends that in the present case, the petitioner has not been named by the complainant as one of the assailants. As per the prosecution, the petitioner had suffered his disclosure statement before the police in some other FIR and later on, he was falsely involved in the present case. Furthermore, Naveen who was the most material witness, has not been cited as a prosecution witnesses in the present case. Learned counsel further contends that he was arrested in the present case on 24.02.2021 and is in custody for the last about 2 years and 6 months.

4. On the other hand learned State counsel has opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner is the main accused and the fire arm was used by him. As per her, the FSL report has been received and it has been established that fire arm recovered from the present petitioner was used in the commission of crime. However, she admits that in all other five cases, the petitioner is on bail.

5. I have heard the learned counsel for the parties and with their able assistance, I have perused the record carefully.

6. In the present case, it is apparent from the record that co-accused namely Rohit @ Vicky, Amit, Pawan, Yash @Aman and Jay Pawadiya @ Mota, all they have granted the concession of bail.

7. Even it is apparent from the record that the date of hearing is fixed on 04.09.2023 for framing of charges and the conclusion of the trial will take a long time and further custody of the petitioner will serve no meaningful purpose. Apart from that, most of the accused in the present case have already been granted the concession of bail and even the petitioner is on bail in all cases registered against him.

8. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of

the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report on every 1st and 3rd Monday of English calender month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha.

9. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

18.08.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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