

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

259

CRM-M 27964 of 2022

Date of Pronouncement: 14.03.2023

Harneep @ Nipu

.....*Petitioner*

Versus

State of Haryana

.....*Respondent*

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

Present: Mr. Sandeep S. Majithia, Advocate for the petitioner.

Mr. R.S. Nain, DAG, Haryana

Mr. Munish Mittal, Advocate
for the complainant.

GURBIR SINGH, J (ORAL)

The petitioner has filed the present petition praying for grant of regular bail in case FIR No.94 dated 19.07.2020, under Section 302, 120-B IPC, Section 25/29/54/59 of Arms Act, registered at P.S. Panjokhra District Ambala.

FIR was lodged at the instance of Ramesh Kumar. As per allegations on 19.07.2020 at about 10.30 am when he was cutting grass in his fields, then at the same time his cousin Deepak was also cutting fodder in the adjoining fields. They had a brief conversation. After a short while, Deepak left the field alongwith bale of 'Charri' on his head but he was continuously working in his fields. At about 10.45 a.m. when Deepak reached near the house of Iqbal, he saw a young man wearing black clothes came near Deepak and he heard the noise of gun shot and said man fled towards the village. He reached the spot and found that the Deepak was lying unconscious who was taken to the hospital but he was declared dead.

The complainant alleged that Deepak was having grudge against Atul @ Chinha and he strongly believed that Atul along with his friends namely Vikas @ Billu, Harnip @ Nipu, Munish @ Mishi, Krishan, Rajesh had hatched a conspiracy with some other unknown persons to eliminate Deepak.

Learned counsel for the petitioner has submitted that petitioner has been falsely implicated. The complainant knew the petitioner very well but he did not nominate the petitioner who shot at Deepak. The complainant is not an eye witness. As per his version, he only heard the gun shot. No identification parade was held. No independent witness was joined at the time of recovery of weapon from the petitioner. No finger print on the above said weapon was lifted. Clothes of the deceased were not sent to FSL to create a link evidence regarding corresponding injuries. The remains of the black clothes allegedly worn by the petitioner at the time of occurrence were not collected to substantiate the allegations. Petitioner and complainant were neighbours and they were having enmity. The house of the petitioner was not attacked by Deepak but by some other persons. A complaint dated 27.02.2020 was moved by the brother of the petitioner (Annexure P-4). In the said complaint, compromise was effected on 02.03.2020. No other co-accused except Atul Joshi had named the petitioner. Except the petitioner all the other accused have been released on bail. Petitioner is in custody since 21.07.2020 i.e. from the date of his arrest.

On the other hand, the prayer is opposed by learned State counsel. He submits that weapon used in the crime is recovered from the exclusive possession of the petitioner. It is a case of broad-day light murder with a specific motive so petitioner is not entitled for bail.

Heard.

Merit of the case is not to be seen at this stage. Fire arm used in the crime is recovered from the exclusive possession of the petitioner at his instance. At this stage, the direct involvement of the petitioner cannot be ruled out. It is a case of murder of co-villager. If evidence recorded during the trial is discussed at this stage, it may cause prejudice to the petitioner himself. It would be seen during the trial what is the effect of non joining of independent witness at the time of recovery of fire arm. The petitioner actually fired at Deepak who died due to receipt of gun shot. The other accused were not actually present at the spot, so petitioner is not entitled to bail on the ground of parity. Thus no ground is made out to grant the concession of bail to the petitioner.

Finding no merit in the present petition, the same is dismissed.

14.03.2023

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(GURBIR SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No