

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

Sr. No. 226

CRR No. 1014 of 2021

Date of decision : 24.03.2023

Abhijeet @ Golu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. H. S. Gill, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

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DEEPAK SIBAL, J. (Oral)

Through the present petition the petitioner seeks regular bail in FIR No.105 dated 22.02.2019 registered under Sections 302/34 IPC, Sections 25, 54 and 59 of the Arms Act, 1959 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Samalkha, District Panipat.

The petitioner, along with co-accused Vishal, is being prosecuted for the murder of Sukhdev.

The petitioner was a minor at the time when the offence, which is the subject matter of the FIR in question, was said to have been committed by him. Therefore, initially an inquiry was held against the petitioner before the Juvenile Justice Board, Panipat (for short-the Board). At that time the petitioner applied for regular bail which was rejected by the Board. Thereafter,

he filed an appeal before the Sessions Court at Panipat which was also dismissed. It is in these circumstances that the petitioner has approached this Court through the instant petition for the aforesaid relief.

It may be noted that during the pendency of the present petition *i.e.* on 20.09.2021, the petitioner was declared to be prosecuted as an adult.

Learned counsel for the petitioner contends that at the time of the alleged offence the petitioner was only 17 years old; he has wrongly been declared by the trial court to be prosecuted as an adult; the petitioner has no other criminal antecedents; the petitioner is in custody for the last over 04 years; the only alleged eye witnesses *i.e.* PW-Sahil already stands examined in the petitioner's trial; PW-Sahil, while appearing before the trial court, has categorically stated that it was not the petitioner who committed the offence he is accused of; there is also no forensic evidence to link the petitioner with the crime he is alleged to have committed; even if the case of the prosecution is taken as the gospel truth, though vehemently denied, the petitioner is not the one who allegedly fired upon the deceased and that since 25 witnesses of the prosecution still remain to be examined in the petitioner's trial, the same will take a long time to conclude.

Learned State counsel opposes the grant of regular bail to the petitioner on the ground that the motive to murder Sukhdev was with the petitioner as he was having an affair with the deceased's daughter to which the deceased had objected to as also that just before Sukhdev was murdered there are photographs to show the petitioner driving a motorcycle with co-accused Vishal, duly armed, as his pillion rider.

The petitioner is 21 year old boy with no criminal antecedents; he

is in custody for the last over 04 years; PW-Sahil who is the only alleged eye witness while appearing before the trial court has given the petitioner a clean chit; there is also no forensic evidence to link the petitioner with the crime he is accused of and that since 25 witnesses of the prosecution still remain to be examined in the petitioner's trial, the same is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Panipat the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present petition and the same would not be construed to be an expression of opinion on the merits of the case.

It is further directed that while on bail the petitioner shall own and possess a smart mobile phone which shall be kept on at all times; the phone shall always be with the petitioner; he shall share the number of the phone as also his location with the SHO of the area where the petitioner normally resides; he shall mark his attendance on the 1st of each month in the concerned police station and that he shall also not leave the jurisdiction of the concerned police station without the prior permission of the SHO of such police station.

24.03.2023
shamsher/sunil yadav

(DEEPAK SIBAL)
JUDGE

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