

2023:PHHC:136085

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

215

CRM-M-33040-2023

Date of decision : 18.10.2023

Dushant**..... Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Sachin Kaushik, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.269 dated 19.06.2021, registered for the offence punishable under Section 302 of IPC, 1860 (Sections 120-B, 212, 404, 34 IPC, 1860 added later on) and Section 25 of the Arms Act, 1959 at Police Station Sadar Sonipat, District Sonipat.

2. FIR was registered on the statement made by one Surender, s/o Rann Singh, who alleged as under:-

“It is requested that I am Surender S/o Rann Singh R/o Village Tihar Malik presently residing at Mayur Vihar Gali No. 22 House No. 396/30 along with my children since year 1993. I am working as a Truck Driver. I have two sons. The elder son is Sagar and the younger one is Sawan. My elder son Sagar has solemnized love marriage with Bhumika 4 months back and my younger son is confined in

2023:PHHC:136085

Sonipat Jail. Today on dated 19.06.2021 at about 5.30/6 PM, he went out of home on his motorcycle bearing no HR10AK9697 by saying to me that “Papa my friends are confined inside Sonipat jail and I am going to meet my friends who will help their companion my brother Sawan in Sonipat Jail.” He was having his mobile having number 9467273362, 8307958552. When I dialed my son number then his both numbers were switched off. When I was searching my son Sagar then I came to know that someone has killed a young boy towards Kakroi Village at Baiyanpur Miner, Sonipat Mahlana Road. On knowing this, I went there. Someone told me there that Police has taken the dead body to Government Hospital Sonipat. I have carefully seen and identified the dead body lying at Dead House Sonipat. The dead body is of my son Sagar. Some unknown gangsters have shot and murdered my son while keeping grudges. Legal action be taken against them. Sd/- Surender Dated 19.06.2021 at 11:20 PM.”

3. During the investigation, prosecution claims to have recovered the motorcycle of the deceased on the disclosure made by present petitioner from public place i.e. Mitra Da Dhaba.
4. Counsel for the petitioner submits that apart from the said recovery alleged to have been made on the disclosure made by the petitioner, there is nothing incriminating against the petitioner and even if the alleged confession made by the petitioner in police custody is taken to be on its face value, it is not the petitioner who fired and murdered the petitioner rather, it is Mandeep @ Baccha and Parvesh @ Kawa. It has been further contended that the co-accused Chand who

2023:PHHC:136085

was in possession of the premises of Mitra Da Dhaba already stands admitted to bail vide order dated 09.09.2022 passed by this Court in **CRM-M-37611-2022** observing as under:-

“This is a petition filed u/s 439 Cr.P.C. for grant of regular bail on behalf of the petitioner in case FIR No. 269 dated 19th of June, 2021 registered for the offences punishable u/s 302, 404, 34, 120-B, 212 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959, at Police Station Sonipat, District Sonipat.

2. Ld. Counsel for the petitioner submits that it a case of circumstantial evidence. As per the contents of the FIR, body of the deceased was found in fields. He died of fire shots. There were two shots on the body of the deceased. During investigation, one Mandeep and one Parvesh were apprehended, who suffered disclosure statements. Pursuant to their disclosure, weapon whereby the offence was committed was recovered from Parvesh. He submits that the petitioner has been implicated merely on the basis of recovery of Registration Certificate of the vehicle of the deceased having been found in his possession. Ld. Counsel for the petitioner further contends that investigation is complete and the challan stands presented. Apart from the aforesaid evidence no incriminating material has been found against the petitioner.

3. Ld. State Counsel emphatically opposes the prayer made by the petitioner and submits that in fact it is the petitioner, who was the chief conspirator and the fact that the Registration Certificate of the vehicle of the deceased has been found from the possession inculcates him.

2023:PHHC:136085

However, he does not deny the fact that the challan already stands presented and the petitioner has undergone actual sentence of 1 year 8 days.

4. I have heard Ld. Counsel for the parties and have gone through the record of the case.

5. The shots due to which the deceased is alleged to have died are attributable to Parvesh and not to the present petitioner. It is not disputed that it is a case of circumstantial evidence and there is no eye-witness account.

6. Keeping in view the aforesaid facts & circumstances, without commenting on the merits of the case and purely on the fact that the petitioner has already suffered incarceration for 1 year and 8 days, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

7. Needless to say that anything observed herein shall not be construed to be an expression of an opinion on the merits of the case.”

5. Counsel for the State submits that there are serious allegations against the petitioner, who has been accused of one of the conspirators in an offence punishable under Section 302 IPC and keeping in view the seriousness of the allegations, the petitioner does not merit admission on bail.

6. Having heard rival contentions of the parties and after going through the records of the case, this Court is of the considered opinion that it is the matter of circumstantial evidence. The only evidence against the petitioner as on date is the alleged recovery made pursuant to disclosure from a place which was admittedly not in

2023:PHHC:136085

exclusive possession of the petitioner. The petitioner is behind bars since 28.06.2021.

7. Keeping in view the incarceration suffered by the petitioner and the fact that co-accused already stands admitted to bail, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

18.10.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No