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2023:PHHC:111897

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33189-2023

Date of decision: 25.08.2023

Karan Kumar Sharma

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Karanjeet Singh Brar, Advocate, for the petitioner.

Mr. Yadwinder Singh Bhangu, AAG, Punjab.

GURBIR SINGH, J. (Oral)

This is second petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.62, dated 09.07.2021 (Annexure P-1) registered under Sections 302, 427, 506, 34 IPC and Sections 25, 27 of Arms Act, 1959 at Police Station Khui Khera, District Fazilka. The earlier petition i.e. CRM-M-1775 of 2023 was withdrawn vide order dated 16.03.2023.

The FIR, in question, was registered at the instance of Saroj Devi. As per allegations, she was married with Amar Singh. His earlier wife Vidya Devi had expired. He had two sons, namely, Parvesh Kumar and Aditya from first marriage, and from the second marriage, they have one daughter. Her husband was owning 26 acres of land. The elder son Parvesh Kumar was residing in Ellenabad (Haryana), whereas the younger son was residing with the family of his father. Her husband had installed a petrol

pump in the name of Ritu Bala wife of Parvesh Kumar, who both quarreled with her husband for giving share in the land. Many panchayats were held over the matter. On 09.07.2021, the complainant and her husband (now deceased) were going in their car and when they reached near Jaipal Dhani, then from the opposite side, a Scorpio vehicle being driven by Parvesh Kumar and the petitioner Karan Kumar Sharma (who was working as Munim in the petrol pump) was sitting in that vehicle, came there and hit his car with the car of Amar Singh. Parvesh Kumar was having revolver in his hand and the petitioner was having gun in his hand. After coming out of his vehicle, Parvesh Kumar shot fire at his father Amar Singh due to which he died.

Learned counsel appearing on behalf of the petitioner has submitted that challan has already been presented in the case. The complainant and other witnesses have been examined and declared hostile. Only formal witness are left to be examined. Petitioner is in custody for the last more than 1 year and 6 months. Nothing is to be recovered from the petitioner and thus, no useful purpose would be served by keeping him behind bars.

Learned State counsel has filed the custody certificate dated 24.08.2023, which is taken on record. He has opposed the bail to the petitioner keeping in view the seriousness of the allegations levelled against him. However, he has fairly conceded that private witnesses and six other official witnesses have already been examined. He has admitted that the eyewitnesses have not supported the prosecution version.

I have heard learned counsel for the parties.

The FIR, in question, was registered at the instance of Saroj Devi, who was examined as PW-4; Bhim Sain, PW-5; and Aditya, PW-6, who have not supported the version of the prosecution. Some of the official witnesses have been examined and only formal witnesses are left to be examined.

Keeping in view the fact that the petitioner is in custody for the last more than 1 year and 6 months, the completion of trial will also take a long time and the fact that complainant and other witnesses have not supported the version of the prosecution and turned hostile, no useful purpose would be served by keeping the petitioner behind bars for a long period.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, concerned.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

(GURBIR SINGH)
JUDGE

August 25, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No