IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

279

CRM-M-37599-2023 (O&M).
Date of Decision: 12.09.2023.

DEEPAK @ PURI

...Petitioner

Versus

STATE OF HARYANA

…Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

*****

Present: Mr. Ashish Tewatia, Advocate, for the petitioner.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

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VINOD S. BHARDWAJ. J (ORAL)

The second petition has been filed under Section 439 of the Code of Criminal Procedure, for the grant of regular bail in FIR bearing No.318 dated 20.05.2019, registered under Sections 302 and 120-B/34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, at Police Station Camp, Palwal.

As per the case of the prosecution recorded on the statement of Smt. Dharamvati wife of Ompal, it was alleged that her younger son Mannu @ Narendra was confined in jail for murder of Om Parkash, Advocate, and her husband Ompal had gone for a morning walk at about

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5:30 A.M. and was walking 15 paces ahead of her. Meanwhile, two boys came from the sides of the Bar Room and Secretariat and fired indiscriminately from pistol at her husband. They continued to fire despite her husband falling on the ground. One of them was identified as Ankit and other boy was stated to be identified in case he is produced before her. It was suspected that Ankit had committed the offence to take revenge of her father due to an old enmity. On the basis of the aforesaid statement, the FIR in the present case was registered whereupon co-accused Mahesh @ Monty was arrested on 12.06.2019. He demarcated the place and also named the petitioner herein. The petitioner was arrested on 02.08.2019 along with one Avkash @ Akku.

Learned counsel for the petitioner has vehemently argued that the petitioner has been in custody since 03.08.2019 and that out of total 25 witnesses cited by the prosecution only 07 witnesses have been examined so far. It is further contended that no recovery had been effected from the petitioner and that as per the case of the prosecution co-accused Ankit and Virender @ Nagnu had fired the shots causing death of the husband of the complainant.

Learned State counsel, on the other hand, has argued that the petitioner has criminal antecedents and that he is involved in multiple cases. It is, however, not disputed that the petitioner has already undergone actual custody for a period of 03 years, 01 month and 21 days as on 10.09.2023 and that only 07 witnesses out of total 25 witnesses cited by the prosecution have been examined so far. Learned State

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counsel contends that the complainant had identified the petitioner as Ankit and as such, the identity is yet to be established.

Controverting the objections raised by the learned State counsel, it is argued by the learned counsel for the petitioner that even though other FIRs had been registered against the petitioner, however, he stands acquitted in all the said FIRs except for FIR No.259 of 30.05.2018 registered under Section 201 of the Indian Penal Code, 1860 and Section 25-54-59 of the Arms Act, registered at Police Station City, Palwal, wherein he was convicted to undergo rigorous imprisonment for a period of one year under the Arms Act and that he has already undergone the sentence so imposed.

I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

Without commenting on the merits of the case and noticing the period of actual custody of 03 years, 01 month and 21 days undergone by the petitioner and also the stage of the trial that out of 25 witnesses cited by the prosecution only 07 witnesses have been examined so far. Further, the dispute as regards the identity of the petitioner is yet to be determined and conclusion of trial will take long time, I deem it fit to allow the instant petition.

Accordingly, the instant petition is allowed and the petitioner is ordered to be admitted to regular bail subject to his furnishing of bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

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It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

September 12, 2023 **(VINOD S. BHARDWAJ)**
raj arora **JUDGE**

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

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