

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

CRM-M-35180-2023

Date of Decision:-15.11.2023

Sandeep Kumar.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Sanyam Bhardwaj, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.38 dated 23.08.2020 under Sections 34, 120-B, 148, 149, 201, 212, 302, 303 IPC and Sections 25, 54, 59 of Arms Act registered at Police Station City Pehowa, District Kurukshetra.

2. The present FIR came to be registered at the instance of Sonu son of Rattan Singh who stated that he was an agriculturist. He had one brother and sister. His younger brother Monu was unmarried and of the age of 22 years. A few days ago Dilbagh @ Baga along with his companions had fired at their (complainant party's) house due to an ongoing enmity. On 23.08.2020 his (complainant's) brother had gone to Pehowa City for work. At about 3.45 pm a friend telephonically informed him (complainant) that Monu has been shot at in front of Bohli Sahib Gurudwara, Pehowa. On receiving this information he (complainant) reached the spot and saw his

brother lying in an unconscious situation. He had received gunshot injuries on his chest and leg. He (complainant) put his brother in an ambulance and took him to LNJP Hospital, Kurukshetra where his brother was declared brought dead. On an inquiry he (complainant) came to know that his brother and a friend Vikrant @ Janu were going from Bohli Sahib Gurudwara, Pehowa on a motor cycle. When they stopped in front of the gate of the gurudwara a grey coloured car came to the spot and struck the motor cycle. Two boys descended from the car and fired at his brother's chest who died. The occurrence had been committed by Dilbagh @ Baga, Ramphal, Rajdeep, Sandeep Saini along with their companions.

During the course of investigation one Pinki was arrested on 28.08.2020. She disclosed the names of Sunil Kumar @ Lakha, Dilbagh @ Bhaga, Rajdeep, Harikesh @ Tony, Rajesh @ Khana (since granted bail vide order dated 17.05.2023 in CRM-M-2829-2023 Annexure P-5), Sarwan (since granted bail vide order dated 09.02.2022 in CRM-M-4740-2021 Annexure P-3), Sandeep (petitioner) and Navdeep @ Chopra.

During further investigation the names of other co-accused, namely, Parveen Kumar, Shekher @ Happy and Sandeep (since granted bail vide order dated 23.12.2022 in CRM-M-14252-2022 Annexure P-4) son of Satbir Singh were revealed.

3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR. His name finds mention in the disclosure statement of his co-accused. Three similarly situated co-accused, namely, Sarwan, Sandeep and Rajesh @ Khana had been granted the concession of bail by this Court. Vikrant @ Janu an eye witness was examined as PW-1 and had not supported the prosecution case. Similarly Rattan, father of the deceased had been examined as PW-3 and Karan uncle of the deceased had

been examined as PW-4 and both had not supported the prosecution case. The petitioner was in custody since 02.05.2022 and only 08 out of 61 prosecution witnesses had been examined so far. Therefore, the Trial of the present case was not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner was not required and he was entitled to the concession of bail.

4. The Counsel for the State on the other hand has placed on record reply by way of affidavit of Mr. Rajat Gulia, DSP, Pehowa, Kurukshetra in court today. The same is taken on record. While referring the said reply he contends that the petitioner along with his co-accused committed the offence in question. The nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail, moreso he was a convict in one other case bearing FIR No.113 dated 29.06.2013 under Sections 365, 302, 201 IPC P.S. Cheeka, District Kaithal. He however concedes that the petitioner is in custody since 02.05.2022, only 08 out of 61 prosecution witnesses had been examined so far, that some similarly situated co-accused had been granted the concession of bail as also the fact that the material witnesses had not supported the prosecution case.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly the petitioner is in custody since 0.05.2022 and only 08 of the 61 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. Similarly situated co-accused, namely, Rajesh @ Khana, Sarwan and Sandeep have been granted the concession of bail by this court. The material witnesses have been examined and have not supported the prosecution case. In this

situation merely because, the petitioner is a convict in one other case would not disentitle him to the grant of bail.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Sandeep Kumar** son of Sh. Tilak Raj is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

November 15, 2023

Vinay

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