

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38775-2022 (O&M)
Date of decision: 13.02.2023

Sumit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Naresh Jain, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. AG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.0073 dated 18.02.2020 under Sections 201, 212, 302, 364, 412, 120-B and Section 25 of Arms Act, registered at Police Station Sadar Hisar, District Hisar; earlier one was dismissed as withdrawn on 22.02.2022.

Learned counsel for the petitioner submits that new ground for filing this second petition is that out of total 22 prosecution witnesses, 16 PWs including the private witnesses have already been examined and the petitioner is in custody since 04.03.2020 and the trial is still going on.

Learned counsel has relied upon the order dated 23.09.2021 passed

in CRM-M-11007-2021, vide which co-accused Amit @ Shikari was granted the concession of regular bail, by passing the following order: -

“Learned counsel for the petitioner submits that in the FIR, registered at the instance of Monika wife of deceased Sunil, it is stated that her husband Sunil was having a licensed pistol for doing the job of Security Guard. Sumit and Jaibir met him two months ago and hired his services as Security Guard for Rs.15,000/- per month. Deceased Sunil used to come home after 4-5 days. On 13.02.2020, her husband Sunil came to home and on the next day i.e. 14.02.2020, he went to Village Satrod, but later on, his phone was switched off. When family members of the complainant went to house of Sumit to find Sunil, mother of Sumit, namely Rani, wife of Jaibir and wife of Sumit told that Jaibir, Sumit, Manoj and Ajay Gautam, resident of Narnaud, in conspiracy with each other, have killed Sunil with pistol and thrown his dead body in the canal.

Learned counsel for the petitioner further submits that the petitioner was neither named in the FIR nor any role is attributed and even no motive is attributed towards him. It is also submitted that the petitioner was later on nominated on the basis of disclosure statement of co-accused Ajay Gautam, who was declared juvenile, wherein it was stated that when Sunil came to meet co-accused Sumit and Jaibir, he told them that he is unable to continue the job of Security Guard and they should pay him due salary. Upon this, both of them refused and forcibly took him to a marriage and the petitioner also accompanied them. It has further come in the disclosure statement of Ajay Gautam (juvenile) that when Sunil demanded his pistol back, then Sumit and Manoj caught hold of Sunil and Jaibir, by snatching his pistol, fired a shot on forehead of Sunil and thereafter, they ran away in the car

along with injured. Sunil died on the way and the accused threw his dead body in a canal.

Learned counsel for the petitioner has next submitted that the petitioner is in judicial custody for the last 01 year, 06 months and 22 days and co-accused Ajay Gautam (juvenile), on whose disclosure statement, name of the petitioner surfaced, has already been released on bail. It is also submitted that till date, out of total 22 prosecution witnesses, none has been examined.

Learned State counsel, on the basis of affidavit of Deputy Superintendent of Police, Hisar-2, has stated about the investigation carried out by the police. It is stated in the affidavit that after recording disclosure statement of Ajay Gautam (juvenile), name of the petitioner surfaced as one of the person, who caught hold of deceased Sunil, when Jaibir fired a shot on his forehead, which resulted into his death.

A perusal of the affidavit shows that though the investigation reflects that there was a dispute between deceased Sunil and his employers/co-accused Sumit and Jaibir, who were not letting him to go by leaving the job, as deceased was demanding the balance due of salary and in that process, he was forcibly taken in a car and was murdered from his own pistol as it was proved from the FSL report, however, no motive is attributed towards the petitioner except that he was present in the car, when the incident took place.”

For the sake of brevity, facts are not reproduced again.

Learned counsel further submits that pistol was recovered from co-accused Jaibir and no recovery was effected from the petitioner.

Reply by way of affidavit of the Investigating Officer/SHO, Police Station Sadar Hisar is on record, in which it is stated that the petitioner and co-

accused Jaibir made disclosure statements that they had committed the offence and had thrown dead body in the canal.

Learned State counsel could not dispute the aforesaid factual position.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering long custody of the petitioner and the nature of offence against him and also in view of the fact that his aforesaid co-accused has already been released on regular bail, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

13.02.2023
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No