

211

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39325-2022 (O&M)

Date of decision: August 01, 2023

Devender @ Mintu

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Sandeep Gahlawat, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial, in criminal case bearing FIR No.217 dated 05.07.2021, registered under Section 302 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25 & 27 of the Arms Act, 1959 (for short 'Arms Act'), at Police Station, Badli, District Jhajjar.

2. Per prosecution version, on 05.07.2021 at about 7:40 p.m., when complainant reached at Shri Ganesh Dharamkanta on Badli-Jhajjar Road near Indo-Space Company, Pahsor, he found his father lying dead and blood was oozing from his head, ear and nose. An FIR was registered in this regard against unknown persons. During investigation, petitioner was arrested and is in custody since 16.07.2021.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He further submits that it is a case of blind murder, but police officials got recorded confessional statement of petitioner, while he was in police custody in another FIR No.229 dated 13.07.2021. The confessional disclosure statement of the petitioner before police is not admissible in evidence. No recovery has actually been effected from the petitioner, but weapon of offence has been planted upon him by the police. He further contends that per FSL report, bullets were not fired

from the weapon alleged to be recovered from petitioner. No useful purpose would be served by keeping petitioner behind bars.

4. Per contra, learned State counsel, assisted by SI Om Singh, opposes the bail petition. He submits that per FSL report, blood was detected on the parcels. Further submits that the fired cartridge case and the fired bullet fired from country made pistol sent to FSL for examination. He also submits that there are total 18 witnesses, and 6 have already been examined. He further contends that petitioner is a habitual offender as 7 more FIRs are registered against the petitioner, out of which in 1 case, he is on bail and in 3 cases, he was acquitted. There is every likelihood that petitioner may flee from trial proceedings and also tamper with the evidence and/ or influence/intimidate the witnesses. He further canvasses that right of custodial interrogation of the petitioner is a very important right in favour of the probe agency to unearth the truth, which petitioner has purposely tried to frustrate.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. It transpires that per FSL report, though it is stated that fired cartridge and fired bullets were not fired from the country made pistol sent to FSL for its examination, but petitioner is a proclaimed offender in another case under Section 307 IPC and is also stated to be involved in 6 more FIRs. The details of the same are as under:

- “a. *FIR No.895/ 2015 U/s 307 IPC, P.S. Jhajjar, in which the accused was declared as a Proclaimed Offender vide order dated 16.04.2018.*
- b. *FIR No.38/ 2008 U/s 420 IPC, P.S. Sadar Bahadurgarh, Jhajjar in which the accused is on bail vide order dated 02.03.2017.*
- c. *FIR No.335/ 2008 U/s 307, 34 IPC and 25/54/59 of Arms Act, P.S. Sadar Bahadurgarh, Jhajjar in which the accused was acquitted vide order dated 05.10.2009.*
- d. *FIR No.409/ 2008 U/s 285, 506, 34 IPC and 25/ 54/ 59 of Arms Act, P.S. Jhajjar, Jhajjar in which the accused was acquitted vide order dated 25.02.2010.*
- e. *FIR No.158/ 2021 U/s 285, 34 IPC, P.S. Farrukhnagar, Gurugram in which the accused was acquitted vide order dated 30.01.2023.*

- f. *FIR No.156/ 2021 U/s 307, 387, 506 IPC and 25/ 54/ 59 of Arms Act, P.S. Farukh Nagar, Gurugram which is fixed for 12.07.2023 for prosecution evidence.*
- g. *FIR No.229/ 2021 U/s 307 IPC and Section 3 of Arms Act, P.S. Badli which is fixed for 13.07.2023 for prosecution evidence.”*

7. Given the antecedents of the petitioner that he is involved in 7 more cases, out of which he was declared a proclaimed offender in one of the cases under Section 307 IPC, the above noted arguments of learned counsel for petitioner do not inspire confidence. I am of the view that petitioner is not entitled to any concession, at this stage, as possibility of misusing the same cannot be ruled out. In the premise, I find force in the contention of learned State counsel that in case petitioner is let out at this stage, there is every possibility of his fleeing from trial proceedings as well as tampering with evidence and/ or influencing/ intimidating the witnesses.

8. As an upshot, no indulgence is warranted by this Court to grant concession of bail to petitioner at this stage. Instant bail petition is thus dismissed.

9. It is made clear that any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are limited to the disposal of the bail application alone and learned trial Court shall proceed in accordance with law without being influenced by this order.

10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 01, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No