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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.38675 of 2023
Date of decision : 14.12.2023

Neetu @ Neetu Bajia

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. M. M. Pandey, Advocate with
Mr. Umesh Pandey, Advocate
for the petitioner.

Ms. Upasna Dhawan, AAG, Haryana.

Mr. Ankit Bishnoi, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

Present second petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.34, dated 01.03.2021, under Sections 302, 341, 212, 506, 201, 34, 120-B of Indian Penal Code, 1860 and Sections 25, 29, 54, 59 of Arms Act, 1959, registered at Police Station Bhattu Kalan, District Fatehabad.

Adumbrated facts of the case are that FIR in this case was registered on the statement of complainant, namely, Stalin, son of Rajendra Singh. It was alleged by him that his cousin, namely, Jitendra @ Piki aged 32 years of age, was appointed as JBT teacher in Ramsara Primary School. On 01.03.2021, he along with his cousin, namely, Swatantar Singh was

coming in his car from village Mehrana to Government School Ramsara to meet his brother Jitendra Singh @ Piki. On reaching in front of the school, they saw his brother Jitendra Singh @ Piki coming out of the school in his car. They saw two young persons riding motor cycle came in front of the car of their brother, namely Jitendra Singh @ Piki. Thereafter they got down from the motor cycle and started firing at him while sitting in the car. His brother came out of his car and ran back to save his life through the school gate. The assailants chased him. One of the assailant entered the school office chasing his brother and another stood at the gate of the school. His brother was shot at by the assailants on his forehead and chest and as a result, he fell down. The assailants kept on firing at his brother. On being satisfied that his brother is dead, the assailants escaped from there flaunting the pistols and threatening others to be killed in case anyone tried to interfere. They took their brother in an Ambulance to the Government Hospital, Fatehabad where the Doctors declared him dead. It was prayed that their brother was killed by unknown assailants by conspiring and hence, the legal action be taken. On the registration of the FIR, the investigation commenced. The supplementary statement of the complainant was recorded. The postmortem of the dead body of Jitendra Singh @ Piki was conducted. During investigation, co-accused were arrested and on the disclosure of one of the co-accused, the petitioner was named in the FIR. He was arrested on 28.10.2022. The petitioner approached the Court of learned Additional Sessions Judge, Fatehabad for grant of bail.

However, the same was declined by the Additional Sessions Judge vide order dated 02.03.2023. The petitioner on the earlier occasion approached this Court by way of filing CRM-M No.25120 of 2023, however, the same was allowed to be dismissed as withdrawn vide order dated 14.05.2023. Hence, the petitioner has approached this Court again by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He submits that the petitioner is not named in the FIR. However, he has been named in this case on the basis of disclosure statement made by co-accused, namely, Anil Kumar. He submits that false and frivolous recovery of car has been planted on the petitioner in order to falsely implicate him. He submits that out of total 11 accused, 04 are already on bail. He submits that out of the 04 accused, 03 were granted bail by the trial Court whereas the 04th accused, namely, Vinod Kumar has been released on bail by this Court vide order dated 08.12.2022. He submits that co-accused Vinod Kumar was named by the complainant in his supplementary statement. He submits that the petitioner was clandestinely involved in this case on the basis of disclosure statement made by the co-accused, which is not an admissible evidence. He submits that case of the petitioner is on a much better footing than that of Vinod Kumar, who has been granted bail by this Court vide order dated 08.12.2022. He submits that the petitioner was falsely implicated in other two FIRs but he has been acquitted in the same. He submits that the complainant has already been examined by the trial

Court wherein he has deposed that he had faced trial in 15 cases. It has also submitted by him that co-accused Vinod Kumar was granted bail when the charges were also not framed whereas as on date, the complainant has also been examined in the present case. He has submitted that in the facts and circumstances, the petitioner, who is behind bars since last more than 01 year, deserves to be granted bail.

Learned counsel for the complainant has opposed the submissions made by learned counsel for the petitioner. He has submitted that the petitioner has hatched the conspiracy along with co-accused for murdering his brother, namely, Jitendra Singh @ Piki. He submits that out of 04 accused, 03 of the co-accused were granted bail by the trial Court as the main allegations against them was that they harbored the assailants whereas in the case of the petitioner, he is facing charges under Section 302 IPC. He has submitted that though the complainant has been examined but majority of the witnesses remains to be examined and hence, granting bail to the petitioner would seriously prejudice the trial. He submits that the petitioner is the professional habitual offender and thus, in the facts and circumstances, the petitioner should not be granted bail by this Court. He further submits that the petition being devoid of any merit deserves to be dismissed.

Learned State counsel on instructions from SI Hardy Singh, has submitted that the petitioner has hatched the conspiracy along with co-accused to murder the deceased, namely, Jitendra Singh @ Piki. She submits that during investigation, the disclosure statement of co-accused

was recorded, who disclosed about the complicity of the petitioner in the present case. She submits that the car used in the crime was recovered from the petitioner during investigation. She has drawn the attention of this Court to the status report filed by the respondent-State by way of an affidavit of Kulwant Singh, HPS, Deputy Superintendent of Police, Fatehabad. She has submitted that on arresting the petitioner on 28.10.2022, the disclosure statement of the petitioner was recorded. It was disclosed by him that he used his vehicle HR-80A-6328 during the course of hatching the conspiracy to murder Jitendra Singh @ Piki. It was found during investigation that the petitioner gave Rs.6000/- to the co-accused, Anil @ Monu and Vikas @ Bachhi at the house of co-accused Sonu Budaniya. She submits that the petitioner is involved in two more cases i.e. FIR No.73 dated 25.04.2019 and FIR No.231 dated 19.08.2020. She submits that though the complainant has been examined by the trial Court, however there are in all 68 prosecution witnesses, out of which 04 have been examined till date. She submits that in case of grant of bail to the petitioner, the trial of the case would be seriously prejudiced.

Heard.

On hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was not named in the FIR. However, his complicity in the case has been found on the basis of disclosure statement made by the co-accused. Though the petitioner is stated to be involved in two other cases, however it has been stated that he has been acquitted in the same. The co-accused Vinod Kumar has already

been granted bail by this Court vide order dated 08.12.2022. Co-accused Vinod Kumar was arrested as an accused in the present case on the basis of supplementary statement made by the complainant. The petitioner is behind bars since 28.10.2022. The investigation is complete and challan has been presented. Charges are also framed. Presently, the prosecution witnesses are being examined by the trial Court. The complainant has already been examined by the trial Court. As informed by the Investigating Officer present in the Court, the prosecution witnesses have been granted the police protection. This Court would refrain itself from commenting anything on merits of the case. Thus, in the overall facts and circumstances, this Court is of the opinion that learned counsel for the petitioner has succeeded in making out the case for grant of bail. The trial would take sufficiently long time in its conclusion. However, in the facts and circumstances of the case, the State is directed to ensure the safety of the prosecution witnesses. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. The learned Court is directed to ensure that local surety is furnished by the petitioner.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

14.12.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No