

CRM-M-40016-2023 (O & M)
(225-2)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40016-2023 (O & M)

Date of decision: 08.12.2023

Dharambir @ Manjit

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ketan Antil, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.29 dated 10.02.2020 under Section 25 of the Arms Act, 1959 and Sections 120-B, 201, 285, 302, 506 and 34 IPC (Sections 120-B and 201 IPC added later on) registered at Police Station Julana, District Jind, Haryana.

2. The present FIR came to be registered at the instance of Sandeep who stated that on 09.02.2020, he alongwith Dinesh and Virender were returning back home on their motor cycle. When they reached near the New Anaj Mandi entrance, then one Ritz car bearing registration No.HR-55X-3280 came to the spot. From the said car, Dashrath and Chhota Ram sons of Suraj Bhan alighted. Both of them raised a *lalkara* that Varinder was not to be spared. Varinder started to run away but was chased by Dashrath and Chhota Ram. When Varinder fell down, both the brothers gave several stabs to him with knives which they were carrying in their hands. When he (complainant) and Dinesh ran towards Varinder to save him, then, two unknown persons who were sitting in the car fired shots in the air with their

CRM-M-40016-2023 (O& M)
(225-2)

::2::

weapons and stated that they would kill them (complainant party) When the people gathered at the spot, the accused fled away.

During investigation on 19.02.2020, information was received at Police Station, Julana regarding the arrest of Dharambir @ Manjit (petitioner) in case FIR No.48 dated 18.02.2020, Police Station Lakhan Majra. In the said case, the petitioner had suffered his disclosure statement about his involvement in the present case alongwith other accused, namely, Sahil @ Kale (since granted bail vide order dated 17.05.2023 passed in CRM-M-8722-2023) and Rohit @ Hunny (since granted bail vide order dated 15.12.2020 passed in CRM-M-33786-2020). Sahil @ Kale and Rohit @ Hunny were arrested. Rohit @ Hunny got recovered a Ritz car bearing No.HR55-X-3280 and a mobile phone make Readme. Sahil @ Kale got recovered a knife and a mobile phone.

On 25.02.2020, the production warrants of Dharambir @ Manjit (petitioner) were obtained and he was joined in investigation in the present case. He disclosed the motive of the occurrence. He also disclosed about the supply of a .32 bore pistol and cartridge by co-accused/Dashrath which had already been recovered in FIR No.48 dated 18.02.2020 under Section 25 of the Arms Act, Police Station Lakhan Majra. He got recovered a missed cartridge and a mobile phone alongwith a SIM card.

On 11.05.2020, the report under Section 173(2) Cr.P.C. was presented against the petitioner, Sahil @ Kale and Rohit @ Hunny.

On 07.06.2021, Chhota Ram @ Chhotu was arrested in the present case. On the basis of his disclosure statement, Section 216 IPC was invoked in the present case. On the same day, Krishan @ Krishna was joined in the investigation and he was arrested in the case for the offence

CRM-M-40016-2023 (O& M)
(225-2)

::3::

under Section 216 IPC. He also got recovered a mobile phone used in the occurrence.

On 18.08.2021, the supplementary challan under Section 173(8) Cr.P.C. was submitted in respect of Chhota Ram and co-accused Krishan @ Krishna.

On 25.08.2021, the co-accused Dashrath who was lodged in District Jail, Jhajjar in case FIR No.194 dated 30.07.2021 under Section 25 of the Arms Act, Police Station Linepar, Bahadurgarh was taken on production warrants and was arrested in the present case. He disclosed that while he was on the run, Sachin @ Chinu had given him shelter. On 27.08.2021, he got recovered a mobile phone used in the occurrence. On 09.11.2021, the supplementary challan under Section 173(8) Cr.P.C. was presented against accused-Dashrath.

On 03.02.2022, accused/Sachin @ Chinu was arrested and on 14.03.2022, the supplementary challan was submitted against him.

3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. Only two accused, namely, Dashrath and Chhota Ram had been specifically named in the FIR for committing the offence in question. The petitioner had been implicated on the basis of his own disclosure statement got recorded in FIR No.48 dated 18.02.2020. Two similarly situated co-accused, namely, Sahil @ Kale and Rohit @ Hunny had already been granted the concession of bail by this Court vide orders Annexures P-2 and P-3. In the two other cases registered against the petitioner vide FIR No.311/2017 dated 25.04.2017 under Sections 25/54/59 of the Arms Act, Police Station Jhajjar, and FIR No.169/2017 dated N/A under Section 307, 120- and 34 IPC, Police Station

CRM-M-40016-2023 (O& M)
(225-2)

::4::

Jhajjar, he had been granted the concession of bail whereas in case FIR No.48/2020 dated 18.02.2020, under Sections 25-54-59 of the Arms Act, Police Station Lakhan Majra, Rohtak, he had been convicted. As the petitioner was in custody since 25.02.2020 and only 14 out of the 42 prosecution witnesses had been examined so far, he was entitled to the concession of bail.

4. The learned counsel for the State has filed a reply dated 05.10.2023, which is taken on record. While referring to the reply, he contends that as per the police investigation, the petitioner was sitting in the car when the occurrence took place alongwith his co-accused. He is alleged to have fired in the air. Therefore, the role played by the petitioner as also his criminal antecedents did not entitle him to the grant of the bail as prayed for. He, however, concedes that the petitioner was in custody since 25.02.2020, only 14 out of the 42 prosecution witnesses had been examined so far and that two co-accused, namely, Sahil @ Kale and Rohit @ Hunny had been granted the concession of bail.

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 Trial. Admittedly, two co-accused of the petitioner have been granted the concession of bail by this Court vide orders, Annexures P-2 and P-3. In the two other cases i.e. FIR No.311/2017 dated 25.04.2017 and FIR No.169/2017 registered against the petitioner, he has been granted the concession of bail whereas in one case bearing FIR No.48 dated 18.02.2020, he stands convicted and has been sentenced to the period already undergone by him. He is stated to be in custody since 25.02.2020

CRM-M-40016-2023 (O& M)
(225-2)

::5::

and only 14 of the 42 prosecution witnesses have been examined so far. Therefore, the trial in the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Dharambir @ Manjit 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 case/crime other than the case(s) referred to in this order.

9. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 08, 2023
sukhpreet

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