

CRM-M-41117-2023 (O & M)

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(231) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41117-2023 (O & M)
Date of Decision: 28.08.2023

Deepak @ Sehwaga

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gurveer Singh Sidhu, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail to the petitioner in case bearing FIR No.0306 dated 02.07.2019 under Sections 148, 149, 302 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Kurukshetra University, District Kurukshetra, Haryana (challan presented under Sections 148, 149, 302, 404, 120-B 216 IPC and Sections 25-54-59 of the Arms Act, 1959).

2. The brief facts of the case are that on account of a prior enmity between the complainant party and the accused side, on the date of the occurrence, while the complainant and the deceased were travelling in their car, one Bolero vehicle bearing registration No.HR-64-3985 came and struck

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the vehicle of the complainant-party from the backside. 10 or 12 boys got out of the Bolero vehicle who were armed with country-made pistols, *gandasis* and ice pokers. Rahul, Parveen Kumar and Kala were having country-made pistols in their hands whereas Gurmeet and Kapura were armed with ice pokers and Sehwas @ Deepak @ Sehwa (petitioner) was armed with *gandasi*. Rahul fired a shot at Sandeep on his left arm, Parveen Kumar shot at his right shoulder whereas Kala shot at the right side of the chest, Gurmeet stabbed the deceased in the chest with the ice poker and Kapura stabbed the deceased with the ice poker on the left side whereas Sehwas gave a *gandasi* blows on the thighs of Sandeep, who died at the spot. All the assailants, thereafter, fled away from the place of occurrence.

3. The learned counsel for the petitioner-Deepak @ Sehwa @ Sehwas contends that the petitioner had been falsely implicated in the present case. The complainant had been examined and he is discrepant in material particulars. In fact, it was a case of a blind murder wherein the petitioner and his co-accused had been falsely implicated. The petitioner was in custody since 19.07.2019 and only 04 out of the 52 prosecution witnesses had been examined till date. Therefore, the trial of the present case was not likely to be concluded anytime soon. Thus, the petitioner was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, contends that the petitioner and his co-accused brutally assaulted the deceased. The nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail. Even otherwise, as the petitioner was an

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accused in three other cases bearing FIR No. 42 dated 22.03.2019 under Sections 148, 149, 323, 341, 365 and 506 IPC, Police Station Dhand, Kaithal, FIR No.205 dated 07.07.2021 under Section 42-A of the Prisons Act and Section 201 IPC, Police Station City Thanesar, Kurukshetra and FIR No.575 dated 16.11.2022 under Sections 323, 324, 325, 34, 506 and 326 IPC, Police Station City Thanesar, Kurukshetra, his criminal antecedents did not entitle him to the grant of bail. He, however, concedes that the petitioner was in custody since 19.07.2019 and only 04 out of the 52 prosecution witnesses had been examined so far.

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

6. The culpability of the petitioner and his co-accused shall be adjudicated upon during the course of trial. He is in custody since 19.07.2019 and only 04 out of the 52 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In FIR No.42 dated 22.03.2019, the petitioner has been granted the concession of bail. In FIR No. 205 dated 07.07.2021, he has already undergone the sentence imposed upon him and in FIR No.575 dated 16.11.2022, the petitioner has been released on bail. In this view of the matter, the further incarceration of the petitioner is not required.

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner-Deepak @ Sehwa @ Sehwas 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.

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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 present case.

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.

(JASJIT SINGH BEDI)
JUDGE

August 28, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No