

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43268-2022

Date of Decision: 28.07.2023

Mandeep Singh

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Vinod Gupta, Advocate, for the petitioner.

Mr.P.K. Aggarwal, DAG, Haryana.

Mr. Munish Behl, Advocate, for the complainant.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 439 Cr.P.C. is to grant regular bail in FIR No.232 dated 15.06.2021 registered at Police Station Ambala Cantt. under Sections 25/54/59 of the Arms Act and Sections 302/34/120B IPC.

2. FIR was lodged on the statement of Hans Kumari, as per which her brother Jeetu @ Diwakar was murdered by two motorcycle riders on 15.06.2021. It was stated in the FIR that deceased Jeetu @ Diwakar along with his servant Kapil was coming towards their house, when motorcycle riders came and fired upon him. Victim was taken to the hospital, where he died. It was further stated that complainant was sure that Saurabh @ Mau son of Ranjit; and Arjun @ Ajju son of Rajinder had committed the murder, as in the year 2019 also, in a dispute between the deceased and Saurabh etc., they had fired upon him. It was further stated that Saurabh @ Mau, Arjun @ Ajju, Randhir Shammi Pandit, Sonu @ Gajju, Monu Dagar,

Aman, Gappu, Arjit and Spender Singh had committed the murder under conspiracy.

3. During investigation, police recorded supplementary statement of brother of the deceased, in which it was stated that Mohit Thakur @ Mayank, Saurabh @ Mau, Arjun @ Ajju and Shivam used to do recce of deceased Jeetu @ Diwakar for the last many days and were passing on the information to the accused, who committed the murder of deceased Jeetu @ Diwakar. Later on, statement of Kapil Kumar, the eye-witness was recorded, who stated that the murder was committed by Saurabh @ Mau and Arjun @ Ajju. During investigation, accused Mohit @ Mayank disclosed that Mandeep Singh @ Lavi (petitioner herein) had arranged one pistol, one country-made *katta* and the cartridges and delivered the same to co-accused Saurabh @ Mau and Arjun @ Ajju for commission of crime and had also arranged a motorcycle for the assailants and that after committing murder of Jeetu @ Diwakar, the co-accused had returned the weapons to the petitioner.

4. It is contended by ld. counsel for the petitioner that the petitioner is not named in the FIR; that Challan has already been filed; that petitioner is in custody for the last more than 1 year and 6 months; that case of the prosecution is based simply on the basis of disclosed statement of co-accused Mohit @ Mayank; that co-accused Mohit @ Mayank has already been allowed bail on 26.05.2022 by this Court in CRM-M-1556-2022 and so petitioner also claims parity. With all these submissions, prayer is made for grant of bail.

5. Ld. State counsel along with counsel for the complainant opposed the bail petition by submitting that the petitioner had supplied weapons to the assailants for committing the murder of deceased Jeetu @ Diwakar. They further submitted that the petitioner cannot claim parity, because Mohit @ Mayank was allowed bail after observing that he along with three others had only conducted the recce on the deceased and had not participated in the commission of crime. However, ld. State counsel has conceded that even the petitioner Mandeep Singh is not found to have participated in the crime by going to the spot.

6. I have considered submissions of both the sides and have perused the record.

7. The only role attributed to the petitioner is that he had supplied the weapons to the assailants Saurabh @ Mau and Arjun @ Ajju. It is conceded case of the prosecution that petitioner did not participate in the crime, as he did not go to the spot. Even the aforesaid attribution is based on the disclosed statement of co-accused Mohit @ Mayank, who has already been allowed bail. The evidentiary value of disclosure statement of Mohit @ Mayank is yet to be tested during trial.

8. Petitioner is in custody, as per the custody certificate, for the last 1 year 6 months and 6 days. Although petitioner is involved in some other cases as per the custody certificate, but the role of the petitioner is required to be looked into in the case in which he is seeking bail, as has been observed by the Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi Vs. State of U.P. and another 2012 (2) SCC 382.***

9. Apart from the above, co-accused Mohit @ Mayank, who nominated the petitioner in his disclosure statement has already been allowed bail. It is also informed by ld. State counsel that 35 witnesses have been cited by the prosecution and though the charges were framed on 22.03.2022, but not even a single witness has been examined so far and thus, trial is likely to take time to conclude.

10. In all the facts and circumstances as noted above and having regard to the role attributed to the petitioner, but without commenting anything further on merits of the case, petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the ld. Trial Court/Duty Magistrate concerned.

Allowed.

(DEEPAK GUPTA)
JUDGE

28.07.2023

Vivek

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No