

CRM-M-46247-2022

DECIDED ON: 14.03.2023

NEERAJ CHAUHAN ALIAS GANDHI

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sandeep Singh Jattan, Advocate for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.61 dated 17.5.2018 at Police Station Barara, District Ambala under Sections 364, 34 of Indian Penal Code, wherein offences under Sections 25, 29 of Arms Act and under Sections 120-B, 302, 364, 406, 420 of Indian Penal Code were added later on.

Learned counsel for the petitioner submits that he has been falsely implicated in the instant case. It has been submitted that, in any case, when the complainant as well as the eye-witness Ritik Rana were examined during the proceedings of trial, none of them has supported the case of prosecution and they have turned hostile and that, in these circumstances, the petitioner, who is behind the bars for 1 year and 9 months, deserves to be released on bail.

On the other hand, learned State counsel has opposed the petition and has submitted that when co-accused Shamsheer and Amar Singh were arrested, both of them suffered disclosure statements to the effect that after abduction of Vivek, he was taken to Derabassi, where the petitioner

alongwith their co-accused committed murder of the deceased.

Learned State counsel has further submitted that the petitioner is a seasoned criminal and that he is involved in so many cases and in these circumstances, his release would not be in interest of the society.

I have considered rival submissions addressed before this Court.

It is a case where there were two eye-witness to the alleged abduction of the deceased Vivek, who is alleged to have been later murdered.

The said two eye-witnesses as regards the factum of alleged abduction, did not support the case of prosecution at all when they were examined during the proceedings of trial. The other allegations pertaining to murder are mainly based on disclosure statements of the accused themselves. The admissibility and veracity of such like disclosure statement would be debatable, particularly in the absence of any other connecting evidence. The petitioner has been behind bars for almost about 1 year.

In view of the totality of facts and circumstances particularly the fact that the material PWs have already resiled added with the fact that the co-accused have already been granted the concession of regular bail, further detention of the petitioner would not be justified. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(SANDEEP MOUDGIL)
JUDGE

14.03.2023

Sham

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*