

CRM-M-45436-2023

2023:PHHC:147441

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(222)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45436-2023

Date of Decision: 20.11.2023

DEEPAK BHALLA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Varun Chhibba, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.264 dated 22.10.2022 registered under Sections 302/307/506/148/149 and 120-B IPC at Police Station Jamalpur, District Police Commissionerate Ludhiana.

2. The brief facts of the case are that one Shivani daughter of Nanbacha got registered the present FIR with the allegations that her marriage was solemonized on 11.12.2021 with Paras Kumar son of Ramesh Kumar. Her husband used to work for Sandeep Singh son of Darshan Singh. On 10.12.2022 her husband and Sandeep Singh, Neeraj and Nihal had gone to District Court, Ludhiana with regard to a case. Her husband and his friends had an altercation with persons present in the court namely Rajan Pandit, Chotu Javdi and others with regard to some issue. By that time some advocates had effected a settlement. However, Rajan Pandit kept a grudge in

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his heart and in the evening made a phone call through his brother Ajay Pandit to her (complainant's) husband who threatened her husband. This fact was told to her by her husband. Later when her husband was going with his friend Abhishek @ Abhi on an Aactiva Scooter bearing No.PB10FD 2479 towards Bhammian then Rajan Pandit, Sumit Khanna, Deepu, Sachin Bhateej, Sankit, Sagar (granted bail vide order dated 25.05.2023 passed in CRM-M-25507-2023) and 5/6 unknown persons who were on their respective motor cycles and holding dangerous weapons surrounded her husband and his friend. Then Rajan Pandit attacked her husband on his head with his datar. Sumit Khanna assaulted her husband on his face with a datar. Then Sachin Bhateej attacked her husband on his head with his sword. Then Sankit attacked her husband on his face with an iron rod. Thereafter the unknown persons present at the spot attacked her husband on different parts of his body with iron rods and also gave injuries to her husband's friend. Her husband and his friend raised an alarm on which her husband's friends namely Sandeep Singh, Gurwinder Singh and Karan Narang came to the spot. Karan Narang took her husband to Fortis Hospital where he was declared dead. Her husband's friend Abhishek @ Abhi had received life threatening blows on his head. Her husband had been killed by Ajay Pandit, Vishal Sood, Simran Sood wife of Vishal Sood in connivance with each other along with Rajan Pandit, Sumit Khanna, Sachin Bhateej, Deepu, Sagar and 5/6 unknown persons. Requisite action was sought against the accused.

Pursuant to the registration of the FIR on 22.10.2022, the statement of Abhishek Shahi @ Abhi was recorded under Section 161 Cr.P.C. on 23.10.2022 (Annexure P-5) in which the petitioner was not named.

On 30.10.2022, the supplementary statement of the complainant-Shivani was recorded (Annexure P-9) wherein Manjot Singh alias Mani (granted bail vide order dated 30.10.2023 passed in CRM-M-33695-2023) was named as an accused. On 01.11.2022, yet another statement of the complainant-Shivani was recorded (Annexure P-10) in which Ranjit Singh alias Raju Pahalwan (granted bail vide order dated 30.10.2023 passed in CRM-M-34136-2023), Deepak Bhalla (petitioner) and Denis Stephan alias Fenta alias Sonu were named as accused. Similarly, on 03.11.2022, the supplementary statement of Shivani (Annexure P-11) was recorded wherein Manjot Singh alias Mani and Nitish Kumar Ghai were also named as accused.

Thereafter, yet another statement of Abhishek Shahi @ Abhi was recorded under Section 161 Cr.P.C. on 03.11.2022 (Annexure P-2) wherein the name of the petitioner figured.

3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR despite the occurrence having taken place on 21.10.2022 and the FIR having been registered on 22.10.2022. The alleged witness to the occurrence namely, Abhishek Shahi @ Abhi got recorded his statement under Section 161 Cr.P.C. on 23.10.2022 where once again, the petitioner is not named. The petitioner has been named in the supplementary statements of the complainant on 30.10.2022 and 01.11.2022 respectively and thereafter in the statement under Section 161 Cr.P.C. of Abhishek Shahi @ Abhi dated 03.11.2022. As the petitioner was in custody since 02.11.2022, none of the 22 prosecution witnesses had been examined so far and he was a first-time offender, he was entitled to the concession of

bail moreso as co-accused Sagar Thakur, Manjot Singh alias Mani and Ranjit Singh alias Raju Pahalwan had been granted the similar concession by this Court vide orders dated 25.05.2023 passed in CRM-M-25507-2023 and 30.10.2023 passed in CRM-M-33695-2023 and CRM-M-34136-2023.

4. An affidavit dated 20.11.2023 by way of an affidavit of Jatinder Singh, PPS, Assistant Commissioner of Police, Industrial Area-A, Ludhiana has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, she contends that the petitioner is not entitled to the concession of bail in view of the nature of the allegations levelled against him. She, however, concedes that the petitioner is not named in the FIR or in the first statement of Abhishek Shahi @ Abhi and came to be nominated as an accused in the supplementary statements of the complainant and that of Abhishek Shahi @ Abhi . She also concedes that three co-accused namely, Sagar Thakur, Manjot Singh alias Mani and Ranjit Singh alias Raju Pahalwan have been granted the concession of bail as also the fact that the petitioner is a first-time offender, in custody since 02.11.2022 and none of the 22 prosecution witnesses had been examined so far.

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

6. Admittedly, the petitioner is not named in the FIR or the initial statement of a purported eye-witness but came to be named subsequently. The evidentiary value of the statements of the PWs shall be evaluated during the course of the Trial. The petitioner is stated to be in custody since 02.11.2022 and none of the 22 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Further, he is stated to be a first-time offender. In this

situation, his further incarceration is not required moreso when three of his co-accused namely, Sagar Thakur, Manjot Singh alias Mani and Ranjit Singh alias Raju Pahalwan have already been granted the concession of bail by this Court.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Deepak Bhalla son of Heera Lal is ordered to be released on bail on 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 crime other than the present case.

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

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

20.11.2023

JITESH

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