

2023:PHHC:045746

**213 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-48862-2022

Date of Decision: 28.03.2023

NAVEEN ALIAS BHOLU

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. P.S.Ahluwalia, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in the case bearing FIR No.170 dated 14.06.2021 under Sections 302, 120-B, 34 IPC and Sections 25 and 29 of the Arms Act registered at Police Station Uchana, District Jind.

Custody certificate has been placed on record.

Briefly, as per the allegations of the prosecution, Suresh Kumar-deceased was the elder brother of the complainant. In the year 2016, the murder of Sahil, the elder son of Suresh Kumar was committed while he was residing in a hostel. The murder was committed by the petitioner and others. The petitioner alongwith others were arrested and were released on bail. On 14.06.2021, Suresh Kumar had gone for a walk and two unknown persons fired indiscriminately from the pistol upon him which resulted in his death.

Learned counsel for the petitioner contends that no allegation has been levelled against the petitioner in having caused firearm injury upon the deceased in the present FIR. His name has been reflected by the complainant in the supplementary statement that has been recorded after 20

days. During the course of trial, the complainant and son of the deceased have not supported the prosecution version. The co-accused, namely, Harsh, Arpit and Ankush have been granted concession of regular bail by the trial Court. The petitioner is in custody for a period of 01 year, 06 months and 13 days. Though, he is involved in four other cases, but is on bail in all those cases. The bail has been declined to the petitioner by the learned trial Court primarily on the score that his case is not at parity with the co-accused as the firearms have been recovered from him. It has been further pointed out that two country made pistols have been allegedly recovered from the possession of the petitioner, but the ballistic report is inconclusive to indicate that the said country made pistols have been used in the commission of crime.

Learned State counsel, on instructions from SI Rajender Singh, submits that the deceased was a witness in the case with regard to the murder of his son that was registered against the petitioner and others. It has been specifically mentioned in the FIR that the deceased has been killed at the instance of the petitioner and others. However, it has not been disputed that no specific act has been attributed the petitioner in the commission of the murder of the deceased in the FIR and the said allegations have been specified by the complainant in the supplementary statement. It has also been pointed out that Harsh Kumar, co-accused, had made a confessional statement to the effect that the petitioner had fired upon the deceased.

It is significant to note that the complainant and son of the deceased have not supported the prosecution version. The co-accused have been granted bail by the learned trial Court. Although, two country made pistols have been allegedly recovered from the possession of the petitioner

but significantly, the ballistic report is not conclusive to indicate that the said country made pistols were used in the commission of crime. Two of the co-accused have been subsequently arrested and the case is stated to be fixed in the trial Court for 15.04.2023 for consideration on charge. The petitioner is in custody for a period of 01 year, 06 months and 13 days. The trial will begin afresh after framing of charge on account of arrest of two other accused at a subsequent stage. Three of the more or less similarly placed co-accused have been granted regular bail by the learned trial Court.

In such circumstances, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

28.03.2023
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No