

CRM-M-47262-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-47262-2023 (O & M)****Date of decision: 19.10.2023**

Parveen @ Pinni

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Keshav Pratap Singh, Advocate,
with Mr. Sukhsandesh Singh, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Vipin Pal Yadav, Advocate,
with Mr. Amandeep Singh Manaise, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.245 dated 07.10.2021 under Sections 148, 149, 302 and 120-B IPC and Section 25 of the Arms Act, 1959 registered at Police Station Bhuna, District Fatehabad.

2. The brief facts of the case are that one Somnath got recorded his statement to the effect that he had two sons, namely, Rajesh alias Raja, (elder son) and Pankaj Kumar (deceased, younger son). On 06.10.2021, he alongwith his younger son-Pankaj Kumar were coming back to their village in their car bearing No.HR-23G-4184. At about 10.15 p.m., when they reached near the plot of Balraj, then suddenly, the tyre got punctured. When his son-Pankaj Kumar got out of the car to check the same, at that time, 2-3 unknown persons came on a motorcycle. One of them was wearing helmet and had a pistol in his hand. They all started quarreling with his son and

started firing upon his son with the pistol. Out of fear when his son ran

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towards the plot of Balraj through the fields, the unknown persons started firing indiscriminately upon him due to which his son fell down. On his raising hue and cry, the villagers came to the spot and they got his son admitted at Government Hospital, Bhuna, where his son was declared dead.

Based on these allegations, the present FIR came to be registered.

3. The learned counsel for the petitioner contends that no person is named in the FIR. Thereafter, on 09.10.2021, the statement under Section 161 Cr.P.C. of Rajesh @ Raju son of Somnath was recorded wherein he stated that on account of a dispute regarding running of the liquor vends, his brother-Pankaj Kumar had been murdered by Vikram Nain son of Jaswant Singh, Jagjit @ Judge son of Balvinder, Vikram Bhambhu son of Uggarsain, Karamjit @ Golu son of Robinder Singh, Sanjay @ Sanju son of Satpal, Aman Malik son of Satyawar, Karan Singh son of Gurjit and Hanuman @ Doctor son of Om Parkash. The petitioner has not been named. The name of the petitioner alongwith his co-accused Sukhjinder @ Sukha @ Sukhwinder (since granted bail vide order dated 15.03.2023 passed in CRM-M-32484-2022, Annexure P-7) figured in the disclosure statement of Karamjeet @ Golu and Sanjay @ Sanju. Subsequently, the petitioner was arrested and during the course of the Trial, the statement of Somnath (complainant) was recorded wherein he has admitted that no Test Identification Parade had ever been conducted in his presence and he had identified the accused in the Court for the first time that day through Video Conferencing. He contends that this identification for the first time has no evidentiary value. He further contends that no recovery has been effected from the petitioner. Since the petitioner was in custody since 25.10.2021

and only 05 of the 42 prosecution witnesses had been examined (including

two material witnesses), the Trial was not likely to be concluded anytime soon, and therefore, the petitioner was entitled to the grant of bail, moreso, when a similarly situated co-accused, namely, Sukhjinder @ Sukha @ Sukhwinder had been granted the concession of bail.

4. The learned counsel for the State alongwith the counsel for the complainant, on the other hand, while referring to the status report filed by way of an affidavit of Sanjay Kumar, HPS, Deputy Superintendent of Police, Fatehabad, District Fatehabad (Haryana) dated 17.10.2023 admit that no one is named in the FIR. During the course of investigation, the name of the accused came up. Various recoveries of weapons, mobile phones, etc. have been effected from the co-accused. They, however, admit that so far as the petitioner is concerned, he is not named in the FIR nor in the statement under Section 161 Cr.P.C. of Rajesh @ Raju, brother of the deceased but is named in the disclosure statement of a co-accused, namely, Karamjit @ Golu and Sanjay @ Sanju. They also admit that no recovery whatsoever has been effected from the petitioner. They, however, in addition, contend that the petitioner had six other cases registered against him bearing FIR No.508 dated 21.12.2019 under Sections 25-54-50 of the Arms Act, Police Station Bhuna, FIR No.511 dated 26.12.2019 under Sections 25-54-50 of the Arms Act, Police Station Bhuna, FIR No.136 dated 28.04.2020 under Sections 147, 149, 188, 269, 323, 341, 427, 506 IPC, Police Station Bhuna, FIR No.168 dated 26.05.2020 under Sections 148, 149, 323, 341, 307 IPC and Sections 25-54-59 of the Arms Act, Police Station Bhuna and FIR No.321 dated 17.12.2020 under Sections 285, 34 IPC and Sections 25-54-59 of the Arms Act, Police Station Bhuna and FIR No.298 dated 21.08.2021 under Sections 25-54-59 of the Arms Act, Police Station Civil Line Sirsa,

and therefore, his criminal antecedents did not entitle him to the grant of bail.

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

6. Admittedly, the petitioner is not named in the FIR or in the statement under Section 161 Cr.P.C. of Rajesh @ Raju @ Raja, brother of the deceased-Pankaj Kumar. Two main witnesses, namely, Somnath (complainant) and Rajesh @ Raju @ Raja stand examined. The co-accused, namely, Sukhjinder @ Sukha @ Sukhwinder has been granted bail vide order dated 15.03.2023. Whether the evidence against the petitioner is sufficient to affix liability upon him would be a matter of adjudication during the course of Trial. The petitioner is in custody since 25.10.2021 and only 05 of the 42 prosecution witnesses have been examined so far. As such, the Trial of the present case is not likely to be concluded anytime soon. Even otherwise, in 04 of the 06 cases registered against the petitioner, he has been granted the concession of bail.

7. In view of the aforementioned circumstances, no useful purpose would be served by keeping the petitioner incarcerated.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Parveen @ Pinni is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case other than the case(s) referred to hereinabove.

10. If any attempt whatsoever is made by the petitioner and/or his

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of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

11. In addition, the petitioner (or someone else on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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

October 19, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No