

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

Neutral Citation No. 2023:PHHC:099534
CRM-M-53450-2022
Date of Decision: August 02, 2023

Bhuru @ Tofik

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Ram Singh Chaudhary, Advocate,
Mr. Mohinder Singh Mehra, Advocate and
Mr. Anil Kumar, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. Vinay Gaur, Ms. Vandana Kashyap and
Ms. Varsha Sharma, Advocates for the respondent-victim.

DEEPAK GUPTA, J.

Prayer in this petition is for grant of regular bail in case FIR No.309 dated 19.07.2022 registered at Police Station Sadar Tauru, District Nuh, under Sections 307, 302, 333, 353, 186, 120-B, 379, 188, 506, 212 of the IPC; Section 21(4) of Mines and Minerals (Regulation of Development) Act, 1957; and Section 3(2) of the Prevention of Damage of Public Property Act, 1984, besides Section 25 of the Arms Act, 1959.

2. FIR was lodged on the complaint of ASI Sanjay Kumar of Police Station Tauru, as per which on 19.07.2022, a police party headed by DSP, Tauru, namely Surender Singh (deceased) accompanied by other police officials, was going in government vehicle to stop illegal mining in the area of Panchgaon hills. A six tyres dumper loaded with stones was noticed coming from the hill side. Police party started following the dumper. On reaching the hill, the dumper driver stopped and started

unloading the stones by lifting the jack of the dumper. The police vehicle stopped and tried to apprehend the dumper driver. The front number plate of the dumper bore number "HR-74A". The driver of the dumper was asked to alight, at which driver Mittar and cleaner Ikkar threatened the police party by showing pistols to run away. The police party started moving backward and then the persons sitting in the dumper started exhorting that if they are nabbed, they will have to face challan and so let the police party be taught a lesson. The driver accelerated the speed of the dumper and tried to run over them. ASI Sanjay Kumar, Constable Amit and Constable bodyguard Umesh managed to save themselves by jumping, but DSP Surender Singh was run over by the dumper and killed at the spot.

3. During investigation, physical evidence was collected. The driver of the dumper **Sabbir @ Mittar** was arrested on 20.07.2022. He was found to be the main accused. He disclosed the names of **Kallu** S/o Chaw Khan, **Bhuru** S/o Kallu (petitioner herein), **Abbas** S/o Mohabata, **Sabbir S/o Saddik**, **Asru** S/o Abdul, **Ikkar @ Ikram** S/o Saddik, all residents of village Panchgaon to be involved in the commission of crime in connivance with each other. Section 120-B IPC was added. In the supplementary disclosure statement, Sabbir @ Mittar disclosed the involvement of **Jabid @ Billa** s/o Magru, **Lambo @ Yusuf @ Yusub** S/o Budhu, **Shokeen** S/o Idrish, who were rendering help in concealing them and so, Section 212 IPC was added to the case. Jabid @ Billa, Ikkar @ Ikram, Bhuru @ Tofiq and Lambo @ Yusuf @ Yusub were arrested from time to time. As accused Ikkar @ Ikram had fired on the police team, so separate FIR No.310 dated 19.07.2022 was registered at Police Station

Sadar Tauru, under Sections 307, 332, 353, 186 of IPC and Section 25 of the Arms Act, 1959 against him. Country made pistol used in the crime and the dumper were recovered from him. Petitioner Bhuru @ Tofiq, arrested on 22.07.2022, suffered disclosure statement admitting his involvement in the crime along with the co-accused.

4. It is submitted by learned counsel for the petitioner that the petitioner is not named in the FIR and has been falsely implicated on the basis of disclosure statement suffered by co-accused Sabbir @ Mittar. The attribution to the petitioner and co-accused Abbas, Sabbir and Asru is that they were present in the dumper and asked the driver, that in case police apprehends them, then mining challan would be suffered and then the driver accelerated the speed of the dumper to run over the police. Learned counsel contends that similarly situated two co-accused, namely Abbas and Sabbir @ Beda, have already been allowed regular bail by the Trial Court. Both of them were also sitting in the cabin of the dumper at the time of the incident. Still further, it is contended that the petitioner is just a labour, who had been hired by the main accused to load the stones in the dumper and *prima facie*, he is not involved in the murder of DSP Surender Singh. Learned counsel contends that on the basis of parity, as well as on the basis of merits, petitioner deserves to be released on bail.

5. Bail is opposed by learned State counsel as well as by learned counsel for the victim, the wife of deceased DSP Surender Singh. It is contended that petitioner was present in the cabin of the dumper at the time of crime, a fact which has been verified from his mobile tower location; and that he was very much involved in the murder; and that his confessional statement at this stage, cannot be ignored. Still further, it is

argued that in case, the petitioner is released on bail, he may go underground and the family of the victim will be deprived of justice. However, learned State counsel has not refuted the contention that similarly placed co-accused Abbas and Sabbir @ Beda; and Kallu have already been allowed bail.

6. The custody certificate placed on record by learned State counsel reveals the petitioner to be in custody for the last 01 years and 03 days, with no criminal antecedents, thus not supporting the contention of learned State counsel that the petitioner is habitual offender of committing mining offences.

7. As per evidence collected by the Investigating Agency on the basis of disclosure statement of principal accused Sabbir @ Mittar, Kallu, petitioner Bhuru @ Tofiq, Abbas, Sabbir and Asru were also present in the cabin of the dumper apart from cleaner Ikkar @ Ikram. As per the FIR version, it is only the driver i.e., Sabbir @ Mittar and cleaner Ikkar @ Ikram, who had threatened the police party to run over by showing pistols. Thus, as far as petitioner is concerned, the prosecution case rests on the disclosure statement of the co-accused.

8. Similarly placed co-accused Abbas, Sabbir @ Beda, who were also present in the cabin of the dumper with the main accused, as per prosecution case, have already been allowed bail, vide order dated 28.10.2022 and 04.11.2022 respectively (Annexures P-7 and P-8) by the Court of Addl. Sessions Judge, Nuh. Even another co-accused, namely, Kallu, who is also stated to be present in the cabin, was allowed bail vide order dated 06.08.2022 (Annexure P-4), though on different grounds after considering his old age and the medical condition.

9. In all the aforesaid facts and circumstances, petitioner deserves to be given the benefit of regular bail on the basis of parity, having regard to the role attributed to him and considering that similarly placed co-accused have already been allowed bail. As such, without commenting anything on the merits of the case, petitioner is admitted to regular bail and is ordered to be released on his furnishing personal bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned. The court will be at liberty to impose stringent but reasonable conditions to secure his presence at the trial.

Allowed.

August 02, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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