

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

CRM-M-52224-2023

Reserved on: 19.12.2023

Pronounced on: 21.12.2023

2023:PHHC: 164758

SACHIN

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Baljeet Beniwal, Advocate, for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 CrPC, petitioner prays for his release on regular bail in case FIR No.417 dated 27.06.2019 registered at Police Station Sector 7, Faridabad, under Sections 302/120B/34 of the Indian Penal Code, 1860 [for short 'the IPC'] and Section 25 of the Arms Act, 1959 [for short 'the Arms Act']

2. (i) FIR was lodged on the statement of Gaurav Chaudhary, as per which on 27.06.2019, at about 8.45 AM, he had gone to equilibrium gym in the market of Sector 9, Faridabad for delivering money to his brother Vikas and had parked his car. The car of his brother Vikas was already parked there. In the meantime, two youths carrying pistols came in a SX4 car and started firing indiscriminately at his brother Vikas and fled away in the SX4 car. Complainant chased them but in vain. He took his brother to Sarvodya Hospital, but doctors declared him brought dead.

(ii) FIR was registered. Postmortem examination was got conducted. Spot of crime was inspected and physical evidence was collected. Special Investigation Team was constituted. In the status report, filed by the respondent-State, details of 21 accused have been given, who were arrested from time to time, out of whom 12 accused namely, Naresh @ Chand, Roshni Devi, Deepak @ Manjesh, Harender @ Nanhe, Naveen Kumar @ Lamba, Daramjit @ Kala, Suraj, Saurabh, Atul Kaushik, Raj Kumar @ Raju, Pradeep Singh and Neeraj have since been allowed bail from time to time either by this Court or by the trial Court.

(iii) The status report further refers to the disclosure statement of co-accused Harender @ Nanhe, on the basis of which Section 212 IPC was added; and on the basis of disclosure statement of Deepak @ Manjesh, offence under the Arms Act was added.

(iv) Status report further refers to the disclosure and supplementary statement of accused-Sachin (Annexure R1 & R2) on which basis Section 201 was added. As per Police investigation, CCTV footage from petrol/CNG pump, Sonipat, Haryana was also collected besides the call detailed records, chat history etc. of three mobile numbers of co-accused Kaushal @ Naresh.

(v) Initially final report under Section 173 CrPC was submitted on 24.09.2019 against 18 accused including the petitioner. Second investigation report was submitted on 22.03.2021 against one Naveen Kumar. 3rd investigation report was submitted against two proclaimed offenders, namely, Vikas @ Malye and Sajjan @ Bholu.

(vi) Charges have been framed on 20.05.2023 and case is now fixed for 21.12.2023 for prosecution evidence. Two of the accused Neeraj and Saurabh are stated to have been declared proclaimed offenders by the trial Court. Police report also reveals that there are 76 witnesses cited by the prosecution, but none has been examined so far.

(vii) As per the status report, petitioner played active role in the crime, as he had done *recee* on the entry and exit timing of the deceased Vikas Chaudhary and provided that information to the members of the Kaushal gang. It was further found that petitioner was actively involved in the Kaushal gang and used to provide crucial information to the gang, which led to the murder of deceased Vikas Chaudhary.

3. It is contended by ld. counsel for petitioner that petitioner has been falsely implicated; that he is not been named in the FIR; that various co-accused, who are similarly placed, have already been allowed bail; that petitioner is in custody for the last more than 4 years and not even a single witness has been examined so far and that there is no material evidence collected during investigation against him and so, in all these circumstances, he be allowed bail.

4. (i) Strongly opposing the bail petition, ld. State counsel has not only drawn attention towards the role played by the petitioner in committing the crime, but also towards the criminal antecedents of the petitioner, inasmuch as he is involved in as many as 19 cases, referred in para No.17 of the status report, out of which he has been acquitted in 5 cases; has been convicted in 2 cases and has been declared proclaimed offender by the Courts in two cases. In other cases, he is under trial.

(ii) Ld. State counsel further submits that in case petitioner is allowed bail, he may abscond and is likely to influence the prosecution witnesses and that having regard to the gravity of offence, mere long custody cannot be a ground to allow bail.

5. I have considered submissions of both the sides and have appraised the record.

6. It is true that petitioner is not named in the FIR to be amongst the assailants. As per FIR, two unknown assailants fired indiscriminately upon Vikas Chaudhary, resulting in his death. The Status report filed by the police, does not reveal as to who were found to be the assailants. However, as per the disclosure statement (Annexure R1) made by the petitioner-Sachin, it is Vikas @ Malye and Rohit @ Lambu, who had fired upon Vikas Chaudhary by shooting from their weapon, killing him on the spot. The role attributed to the petitioner is that he provided the entry and exist timing of the deceased to the shooters. Petitioner was active member of the Kaushal gang, as per the investigation and murder of Vikas Chaudhary was caused, as he had refused to pay extortion money of ₹2 Crore, demanded by the co-accused Kaushal @ Naresh.

7. No doubt that many of the co-accused have been allowed bail by way of different orders (Annexures P1 to Annexure P11) placed on record, but petitioner cannot claim parity with them, having regard to his criminal antecedents, as he is not only proclaimed offender in two of the cases, but has also been convicted in two cases and is also facing trial in numerous other cases.

8. Considering all the aforesaid facts and circumstances as noted above, but without commenting anything further on the merits of the case, the long incarceration of the petitioner and the fact that trial is likely to take a long time, cannot be a ground to grant bail, having regard to the gravity of offence committed & manner in which it has been committed and criminal antecedents of the petitioner. As such, the present petition is hereby dismissed.

21.12.2023
Vivek

(DEEPAK GUPTA)
JUDGE

1. Whether speaking/reasoned?	Yes/No
2. Whether reportable?	Yes/No