

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55435-2022
Reserved On.: 15.09.2023
Pronounced On: 19.09.2023

Amit @ Chanchal

.....Petitioner

Vs.

The State of Haryana

.....Respondent

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Ritesh Tomar, Advocate
for the petitioner

Mr. Parveen Kumar Aggarwal, DAG, Punjab.

DEEPAK GUPTA, J. (ORAL)

The petitioner prays for grant of regular bail by way of this petition filed under Section 439 Cr.P.C in case FIR No.67 dated 21.01.2022 registered under Sections 302, 328, 120-B, 34 of the IPC, 1860 and Section 25 of the Arms Act, 1959, registered at Police Station Ballabgarh, District Faridabad.

2. Status report by way of an affidavit dated 28.04.2023 of Shri Munish Sehgal, HPS, Assistant Commissioner of Police, Ballabhgarh, District Faridabad has been filed on behalf of respondent- State.

3. FIR was lodged on the statement of Smt. Yashoda Bhatti, as per which she has two sons and one daughter. Her elder son Vinod is from the loins of her first husband Mannu, after whose death, she had performed second marriage with Bharat Singh Bhatti (deceased). From the loins of said

Bharat Singh, she has one son Suraj Singh Bhatti and daughter Radha. Geeta (co-accused) is the wife of Vinod; whereas Yashika aged 15 years and Lalit aged 12 years are the children of Geeta.

4. It was further stated by the complainant that on 20.01.2022 after a family function pertaining to the first death anniversary of her deceased son, her son Vinod had left for work. Her daughter-in-law Geeta gave pills to all the family members and then they went to sleep. In the morning, complainant was woken up by the loud noise of the tenants. They went to the room of Bharat Singh, who was found dead with blood in his throat. Geeta was found missing. Yashika, the daughter of Geeta, told her that Geeta had given money to some unknown person for purchasing pistol and that on night of 19.01.2022 that person had given weapon to her mother i.e., Geeta, who had threatened her not to tell the same to anybody. It was further disclosed by Yashika that on 20.01.2022 at about 10:30 p.m. an unknown person had called her mother Geeta, who was given the pistol. Yashika also told that her mother used to feed her grandfather by mixing some medicine in the food. As per complainant Yashoda, Geeta used to quarrel over partition of the house.

5. Investigation was conducted, during which post-mortem on the dead body of deceased Bharat Singh was done. A bullet was retrieved from the dead body of the deceased, which was taken into possession after performing necessary formalities. Co-accused Geeta was arrested on 23.01.2022, who suffered disclosure statement and got recovered a live cartridge. On 04.02.2022, Dalip @ Saindy @ Kali was arrested and in a Test Identification Parade conducted at District Jail Neemka, said Dalip was identified by

Yashika daughter of Vinod. In his disclosure statement, said co-accused Dalip revealed the name of Amit @ Chanchal (petitioner). According to him all three of them i.e., Dalip, Amit (petitioner) and Geeta had hatched the conspiracy to murder Bharat Singh Bhatti. He also disclosed that country-made pistol was provided to him by Geeta. Said country-made pistol was also got recovered by said Dalip along with an empty cartridge, some ornaments of co-accused Geeta and documents of the property, which were taken into possession.

6. Petitioner Amit @ Chanchal was arrested on 08.02.2022. He suffered disclosure statement, as per which he was provided ₹ 4,000/- by Geeta to purchase the country-made pistol and the two bullets and that he had handed over the same to Geeta.

7. The pistol as recovered from co-accused Dalip and the bullet as retrieved from the dead body of Bharat Singh were sent to Forensic Science Laboratory Madhuban and it was reported that bullet had been fired from the same pistol as recovered from Dalip. Call details record of the accused were also collected. After necessary investigation, Final Report under Section 173 Cr.P.C. was filed in the Court. Charges were framed by the Court of Sessions Judge, Faridabad on 31.05.2022. Out of 39 witnesses cited by the prosecution, 04 have been examined till date.

8. It is submitted by learned counsel that petitioner is not named in the FIR and that he has been made the scapegoat on the basis of alleged disclosure statement of co-accused Dalip @ Sandy, which is inadmissible in evidence. Still further, it is argued that Yashoda and Yashika have not supported the prosecution case during trial and have turned hostile. Besides,

co-accused Geeta has already been allowed bail by the Court of Sessions on 23.09.2022 vide Annexure P-3. Learned counsel contends that trial may take time to conclude and in all these circumstances, he be allowed bail.

9. Strongly opposing the bail petition, learned State counsel not only pointed out towards the gravity of the offence committed by the petitioner in conspiracy with the co-accused but also the fact that petitioner is a man of criminal nature and habitual of committing crimes, as he is involved in as many as 13 criminal cases, as per details given in para-No. 17 of the status report. With these submissions, prayer is made for rejecting the petition.

10. I have considered submissions of both the sides and have perused the record carefully.

11. As will be evident from the status report filed by the Police, in brief, the investigation revealed that co-accused Geeta had given ₹ 4,000/- to the petitioner Amit to purchase a pistol and the cartridges. Petitioner purchased and handover the same to Geeta. Geeta then handover the pistol and cartridges to co-accused Dalip, who committed murder of Bharat Singh. Thus, it is Dalip, who committed the murder. It is co-accused Dalip from whose possession, the country-made pistol used in the crime was recovered and which was found to have matched with the bullet retrieved from the dead body of deceased. It is Dalip, who was identified by Yashika in the Test Identification Parade, as per the status report filed by the State. Further, the material witness of the prosecution namely Yashika and Yashoda have not supported the prosecution case in any manner in their statements made during trial, copies of which have been placed on record by learned counsel for the

petitioner. Only 04 out of 39 witnesses have been examined by the prosecution so far and thus, trial is likely to take long time to conclude. Co-accused Geeta, who hatched the conspiracy along with others, has already been allowed bail by Court of Sessions vide order dated 23.09.2022 (Annexure P-3).

12. Having regard to all the aforesaid facts and circumstances, particularly the role attributed to the petitioner and also the fact that petitioner is in custody since 08.02.2022 i.e., for the last more than 01 year 07 months but without commenting anything further on the merits of the case, this petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

September 19, 2023
Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No