

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-56531-2022

Date of Decision: 6.2.2023

Virender @ Binder

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Gourav Jain, Advocate,
for the complainant.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.168 dated 2.9.2020 registered for the offences punishable under Sections 148, 149, 302, 323, 440, 395, 201, 325, 459, 120-B IPC and Section 25 of Arms Act at Police Station Bhattu Kalan, District Fatehabad.

As per the allegations recorded in the FIR on 1.9.2020, complainant-Dinesh Kumar along with Sandeep, Anil and Jasbir was present in the office situated in liquor vend. At about 8/8:15 p.m. three vehicles stopped in front of the office and Ramesh, Leellu Ram, Mewa Singh, Sahil along with 10/12 unknown persons got down from said vehicles. Sahil was armed with pistol while the other persons were carrying iron rods and then Ramesh asked them to come out of the office and then aforesaid Ramesh, Leelu, Mewa Singh and Sahil entered the office and then

Sahil proclaimed that they are sent by Jaiveer to take revenge and then Ramesh fired from his pistol towards Sandeep and then Leelu, Mewa Singh and Sahil also started firing from their pistols. The shot fired by Ramesh hit in the stomach of Sandeep while shot fired by Leelu hit on the left arm of Sandeep while shot fired by Mewa Singh hit on the right foot of Sandeep while the shot fired by Sahil hit on the wall of office and aforesaid 10-12 unidentified persons armed with iron rods also attacked them and caused injuries on the head and other parts of the body of Anil. They also ransacked the entire office and took away amount of Rs.2.5 lacs, which was lying in the office. Later on Sandeep died when he was taken to the hospital. Injured Anil was also medico legally examined.

Counsel for the petitioner submits that the petitioner was not named in the FIR and was later on falsely implicated in the present case and is in custody for the last more than 2 years. The counsel for the petitioner further submits that material witnesses namely complainant-Dinesh Kumar and injured eye-witness Anil Kumar are examined during the trial and copies of their statements are available on the record. The counsel for the petitioner further submits that no weapon or incriminating article was recovered from the possession of the petitioner. The counsel for the petitioner further submits that there are no specific allegations against the petitioner regarding his involvement in the murder of Sandeep. The counsel for the petitioner has further submitted that even during the trial complainant-Dinesh Kumar and injured-Anil Kumar had not specifically named the petitioner and no specific act is attributed to him. The counsel for the petitioner further submits that it will take considerable time for the trial to conclude and as such prayer is made for grant of regular bail to the

petitioner. Counsel for the petitioner has further submitted that similarly situated co-accused Subhash Chander and Rakesh @ Raka are already given benefit of regular bail vide orders dated 10.11.2022 (Annexures P-4 and P-5).

The instant petition is contested by the State counsel as well as by the counsel for the complainant. Both of them have submitted that the petitioner conspired with the other accused persons and attacked Sandeep and Anil and caused injuries to them as a result of which Sandeep died. It is further submitted that trial is going on. It is further submitted that the complainant and injured eye-witness Anil while appearing in the witness-box have supported the case of prosecution. It is further submitted that taking into consideration gravity of offences committed, the petitioner is not entitled to grant of regular bail at this Stage. State counsel has not disputed the fact that the petitioner is in custody since 16.9.2020 and during the investigation, one iron rod was recovered from his possession.

I have considered the submissions made by the counsel for the parties.

The petitioner was not named in the FIR and was later on nominated as an accused and is in custody for the last more than 2 years and is having no criminal history. No specific injury or act has been attributed to the present petitioner. The complainant and material witness namely Anil are already examined and even while appearing in the witness box, they have not attributed any specific injury or act to the petitioner and further, there is no apprehension that if released on bail, the petitioner is going to influence the material witnesses as they are already examined. The trial is going on at a very slow pace and it will take considerable time for the trial

to conclude. Exact complicity of the petitioner will be established by the trial Court at the appropriate stage of the trial.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

February 6, 2023

Paritosh Kumar

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