

CRM-M-58710-2022

2023:PHHC:143875

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

247

CRM-M-58710-2022

Date of Decision : November 09, 2023

Amit

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Atul Lakhanpal, Sr. Advocate assisted by
Mr. Sidharth Chawla, Advocate for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

KULDEEP TIWARI. J.

1. This is the second bail petition filed by the petitioner-accused seeking the relief of regular bail during the pendency of trial in FIR No.28 dated 27.1.2017 under Sections 302, 120-B, 34 IPC and Sections 25, 54, 59 of the Arms Act, registered at Police Station Barwala, District Hisar, Haryana.

2. The criminal agency was brought into motion on a complaint moved by Sandeep son of Ram Chander, who informed the police that his father has been murdered. It was alleged in the FIR(Supra) that on 27.1.2017, at about 2.00 p.m., the complainant received information on telephone from the police that his father, who in partnership with Ramesh Numberdar, resident of Lohari Ragho, has taken a petrol pump near Barwala on lease, has been murdered by some unknown assailants. The

investigation was carried out. Eight empty cartridges, one pallet, two patari sikka, blood stained earth and cement concrete, lying near the dead body were recovered and taken into police possession.

3. In compliance of the order dated 22.12.2022, reply to the instant bail petition was filed by the respondent-State through Ashok Kumar, HPS, Deputy Superintendent of Police, Hqrs. Hisar, revealing therein the role of the petitioner. It is submitted in the reply that the petitioner alongwith other co-accused, namely, Naresh Moth, Sonu Narnaund, Aashil Billa met with one Vinod Kana at Jaipur, who asked them to commit murder of Ram Chander as he had enmity with his friend Rajesh @ Boda. Vinod Kana arranged the weapons and the conspiracy was hatched at the house of Rajesh @ Boda at village Lohari Ragho. On the date of occurrence, it was informed that the deceased Ram Chander is present at his Petrol Pump, Barwala and the petitioner alongwith Sonu, Aashish @ Billa and Naresh Moth went on two motor cycles at the Petrol Pump and shot dead Ram Chander, with their respective weapons. It has also come in the investigation that the petitioner also fired upon Ram Chander. The weapon of offence used in the crime was got recovered by him in a different FIR No.1009 dated 14.11.2017, under Sections 186, 353, 307 IPC and Section 25 of the Arms Act, registered at Police Station Sadar, Jhajjar, District Jhajjar.

4. The reply filed by the State also reveals the antecedents of the present petitioner, who infact is involved in 9 other cases including 2 more murder cases. The detail of the cases is given hereinafter:-

Sr. No.	FIR No.	Dated	Section of law	Name of PS	Present stage
1	20	08/01/12	398, 401 IPC & A.Act	Narnaund	Acquitted on 18.12.2012
2	463	18/10/2016	302, 34 IPC & A.Act	Narnaund	Under trial
3	144	24.4.17	387, 307 IPC & A.Act	Barwala	Acquitted on 5.3.2020
4	182	04/09/17	147, 148, 302 IPC & A.Act	Bass	Under trial
5	514	22.6.17	387, 506 IPC	Civil Lines, Hisar	Acquitted on 8.1.2023
6	743	04/11/17	323, 307 IPC & A.Act	City Rohtak	Under trial
7	492	30.10.17	392 IPC & A.Act	Pataudhi	Under trial
8	600	19.6.17	387, 307 IPC & A.Act	Sadar Hisar	Under trial
9	1009	14.11.2017	186, 353, 307 IPC & A. Act	Jhajjar	Under trial

5. Learned State counsel has placed on record the order dated 11.7.2022, passed by a co-ordinate Bench of this Court, whereby, the bail application i.e. CRM-M-25235-2021, preferred by the co-accused was ordered to be dismissed as withdrawn. He has also submitted that out of 44 witnesses, 33 witnesses have already been examined and the trial is at advance stage.

6. *Bail is the Rule and Jail is an Exception*". This basic principle of criminal jurisprudence was laid down by the Hon'ble Supreme Court, way back in 1978, in its landmark judgment titled "***State of Rajasthan V.Balchand alias Baliay***", 1977 AIR 2447, 1978 SCR (1) 535. This principle finds its roots in one of the most distinguished fundamental rights, as enshrined in Article 21 of the Constitution of

India. Though the underlying objective behind detention of a person is to ensure easy availability of an accused for trial, without any inconvenience, however, in case the presence of an accused can be secured otherwise, then detention is not compulsory.

7. The right to a speedy trial is one of the rights of a detained person. However, while deciding application for regular bail, the Courts shall also take into consideration the fundamental precept of criminal jurisprudence, which is “the presumption of innocence”, besides the gravity of offence(s) involved.

8. Also, in ***Siddharam Satlingappa Mhetre v. State of maharashtra, Criminal Appeal No.2271 of 2010***, the Hon’ble Supreme Court has insisted upon striking a perfect balance of sanctity of an individual’s liberty as well as the interest of the society, in grant or refusing bail. The relevant extract of the judgment (supra) is reproduced hereinafter:-

3. The society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests namely, on the one hand, the requirements of shielding the society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand absolute adherence of the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of

individual liberty.

9. This Court has examined the instant petition on the touchstone of the hereinabove extracted settled legal principle(s) of law.

10. Considering the gravity of the offence and the role of the petitioner and the fact that the trial is at advance stage and without commenting upon the merits of the case, this Court, at this stage is not inclined to grant the relief of regular bail to the petitioner.

11. The instant bail petition is, hereby, dismissed.

12. However, considering the incarceration period, a direction is issued to the learned` trial Court to make all endeavor to decide the trial most expeditiously.

(KULDEEP TIWARI)
JUDGE

November 09, 2023
ajay-1

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No