

(237)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 847-2024
Date of Decision: 15.01.2024

ASHOK ROHILLA @ MENTAL

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rohit Sharma, Advocate for
Mr. D.S. Matya, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.255 dated 06.11.2022 registered under Sections 323, 308, 304 (II) IPC read with Sections 120-B and 34 IPC at Police Station Udyog Vihar Manesar, District Gurugram.

2. The brief facts of the case are that on the night intervening of 5/6.11.2022 at about 03.00 AM, information was received in the Police Station regarding death and injuries sustained by some persons at Udyog Vihar, Gurugram. The Investigating Agency reached the spot and found that injured Annu Kumar and Sushil Kumar had been admitted in hospital for medical treatment. The dead body of an unknown person was found at the spot. The body was sent to the mortuary. The Investigating Agency received information that the injured Annu Kumar Gupta had been admitted in Neelkanth Hospital, Phase-III, Gurugram. The police officials proceeded to

the hospital and recorded the statement of the injured complainant-Annu Kumar Gupta to the effect that he was working as a labour at Hyatt Discover L1, Udyog Vihar. On the night intervening 5/06.11.2022, he along with his fellow workers were inside the liquor vend. However, on hearing a commotion, they came out and saw that four vehicles outside the vend were doing stunts and the occupants of the vehicles were fighting. Suddenly, an Ertiga car came towards them (complainant party) being driven in a rash and negligent manner. The said vehicle struck him and his co-worker who both got injured. The unknown persons standing next to them got injured and died at the spot. Thereafter, the occupants of one car started beating the occupants of the other. He along with other injured were taken to the Neelkanth Hospital for treatment. He prayed for the taking of strict legal action against the culprit.

Based on the aforesaid information, the instant FIR came to be registered. The investigation began and CCTV footage was collected. Ravi Singh alias Ravinder (granted bail vide order dated 19.07.2023 passed in CRM-M-20065-2023), co-accused Saurabh Sharma @ Sabby, Rahul Shukla (granted bail vide order dated 07.08.2023 passed in CRM-M-37393-2023), Vikas @ Vicky, Mohit, Mukul Soni and Luv were arrested on 06.11.2022 on the basis of secret information. Ravi Singh alias Ravinder got recovered an Ertiga car bearing Registration No.HR-55-AG-6907 with his RC. The accused Saurabh Sharma alias Sabby got recovered an Ertiga car bearing Registration No.HR-72-C-2223 and his RC.

Ashok Rohilla @ Mental (petitioner) was arrested on 07.11.2022 after he had been discharged from Park Hospital, Gurugram. The postmortem of the unknown deceased was got conducted and thereafter, his last rites were performed. Despite efforts, the identification of the deceased could not be known. Various broken pieces of the Ertiga vehicle bearing Registration No.HR-72-C-2223 were taken into police possession. During the course of verification of facts Section 302, 307 IPC were deleted and Section 304(II), 308 IPC were added.

Thereafter, the challan was presented against Ravi Singh alias Ravinder, Saurabh Sharma @ Sabby, Rahul Shukla, Vikas @ Vicky, Mohit, Mukul Soni, Luv and the petitioner.

3. The learned counsel for the petitioner contends that so far the present petitioner is concerned, no liability whatsoever can be affixed upon him. The reading of the FIR itself would not reveal any significant overt act on the part of the petitioner so as to inculcate him in the commission of the present offence. In fact, as per police investigation, the petitioner was nominated along with his co-accused on the basis of secret information only and was stated to be accompanying his friends in the ERTIGA Car bearing No.HR-55AG-6907 which was being driven by Saurabh Sharma @ Sabby. The complainant had also failed to identify the accused. Taking the confessional statements of the various accused to be true, the allegation against the petitioner is that he sat in the vehicle with the accused Saurabh Sharma alias Sabby who was performing dangerous stunts in the car which got out of control and hit the unknown bystander who succumbed to his

injuries and caused injuries to the complainant-Annu Kumar Gupta and his companion Sushil Kumar. Even otherwise, four co-accused of the petitioner namely, Luv Bhardwaj, Vikas alias Vicky, Mohit, Mukul Soni had been granted the concession of bail by the Trial Court and Ravi Singh @ Ravinder from whom an Ertiga car had been recovered and Rahul Shukla had been granted bail by this Court. As the petitioner was in custody since 07.11.2022 and none of the 35 prosecution witnesses had been examined so far, he was entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that one person was done to death whereas two persons suffered life threatening injuries. Therefore, the nature of the allegations levelled against the petitioner and his co-accused did not entitle him to the grant of bail. He, however, concedes that the petitioner is in custody since 07.11.2022 and none of the 35 prosecution witnesses had been examined so far. He was also admits that a co-accused Ravi Singh @ Ravinder and Rahul Shukla have been granted bail.

5. I have heard the learned counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be a matter of adjudication during the course of trial. Admittedly, the investigation stands completed and none of the 35 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. As the petitioner is in custody since 07.11.2022, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Ashok Rohilla @ Mental son of Ramroop is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
8. The petition stands disposed of.

15.01.2024

JITESH

(JASJIT SINGH BEDI)

JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No