

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(256)

CRA-S-328-2024 (O&M)
Date of decision:- 07.02.2024.

Ramrup @ Gogi

...Petitioner

Versus

State of Haryana and anr.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rajesh Nain Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Prayer in the petition is for grant of regular bail in FIR No.136 dated 27.06.2020 under Sections 148, 149, 302, 364 of IPC (Section 404 IPC and Section 25 of the Arms Act and Section 3(2)(v) of SC/ST Act added later on) registered at Police Station City Safidon.
2. The FIR was registered on the information given by Dimple wife of Surrender the deceased who alleged that on the date of occurrence her husband accompanied Ashish son of Gupta and her nephew at Dargha of Peer Baba Safidon. She followed them on foot. She saw her husband in company of Ajay Boch, Ravi and Ashu when two boys came on the motorcycle and forcibly pushed her husband into a white car and went away. He husband was killed in the car and the body was recovered from the same later.
3. Learned counsel for the petitioner submits that the petitioner has been nominated by co-accused Ajay in his disclosure while in

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police custody. Prosecution witnesses namely PW1 Ashish, PW3 Suresh @ Bittu have not supported the case of the prosecution and have been declared hostile. From the statement of PW5, it is evident that no test identification prayer was conducted and thus the identity of the culprits remains amiss. Further submits that co-accused Sumit @ Sunny vide order dated 12.01.2024 passed in CRA-S-34-2024 observing as under:-

“6. Admittedly, the three material witnesses have been examined and have not supported the prosecution case. Whether the remaining evidence is sufficient to affix the liability upon the appellant shall be adjudicated upon during the course of trial. The appellant is in custody since 29.06.2020 and only 08 of the 32 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. As such, the further incarceration of the appellant is not required.

7. Thus without commenting on the merits of the case, the present appeal is allowed and the appellant-Sumit @ Sunny son of Ram Kumar is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.”

4. Learned State counsel on instructions from ASI Suresh is not in a position to dispute the aforesaid facts. The petitioner is behind the bars since 3 years, 7 months and 4 days.

5. Without commenting upon the merits of the case and keeping in view the nature of evidence against the petitioner, the material witnesses not supporting the prosecution and the period of incarceration suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the

satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

- 6. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
- 7. Pending application(s), if any, shall stand disposed off.

(PANKAJ JAIN)
JUDGE

07th February, 2024
spn

Whether speaking/reasoned : Yes
Whether Reportable : No