

CRM-M-6505-2024 (O & M) ::1:-

(298) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6505-2024 (O & M)
Date of Decision: 15.04.2024

Sukhchain Singh
... Petitioner

Versus

State of Haryana
...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Saurav Bhatia, Advocate,
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

Mr. Amit Chaudhary, Advocate, for the complainant.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail to the petitioner in case bearing FIR No.7 dated 08.01.2023 under Section 302, 34 IPC and Section 25 of the Arms Act and Section 120-B IPC added later on, registered at Police Station Bhuna, District Nuh, Fatehabad.

2. The present FIR came to be registered at the instance of Gourav Gaur and reads as under:-

“Statement of Gourav Gaur S/o Jaipal Sharma Sio Banarsi Dass, R/o Palsar, aged 23 years, Mob. No.9992170665. Stated that I am resident of abovementioned and is an agriculturist. I am only child of my parents and is unmarried. Today on 08.01.2023, me and my father Jaipal S/o Banarsi Dass, R/o

CRM-M-6505-2024 (O & M)

::2::-

Palsar were warming our hands on the fire that was burnt outside the grocery shop of Mithu S/o Noora Ram, R/o Palsar which is near to our house, then at around 11 AM, one motorcycle came from Buthan side and two boys were sitting on it, one of them was Sukhpreet S/o Jasvir R/o Palsar whom I already know and one other unknown person who was riding the bike. That Sukhpreet after alighting from motorcycle has fired with the pistol that he was having in his hand into the chest of my father Jaipal. That after receiving the bullet injury, my father breathed last there. That after giving bullet injury Sukhpreet and unknown person ran away from motorcycle in the spot. I do not remember the registration number of motorcycle. After that me and my family after arranging the vehicle took my father to Government Hospital, Ratia for treatment and there the declared my father Jaipal dead. Sukhpreet along with his unknown companion has killed my father by firing upon him because of some old land dispute. You please take strict legal action against Sukhpreet and unknown person. I have given my statement in front of my uncle Harmesh Sharma S/o Banarsi Dass, R/o Palsar and same is read over and is correct. Sd/- Gourav Goad Harmesh Singh. Attested Anoop Singh SI/SHO, P.S. Bhuna dated 08.01.2023”.

3. The learned counsel for the petitioner contends that the petitioner had not been named in the FIR and had been nominated as an accused on the basis of the second disclosure statement of co-accused/Sukhpreet Singh. Even as per the said disclosure statement, the role of the petitioner was that the weapon which was allegedly used in the crime was purchased on the information provided by the present petitioner. Other than the said disclosure statement, there was absolutely no evidence inculcating the petitioner. Since

CRM-M-6505-2024 (O & M)

::3::-

the petitioner was in custody since 10.04.2023 but none of the 42 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail even though he was a previous convict in three other cases and an under trial in four other cases.

4. The learned counsel for the State has filed a reply dated 10.04.2024 which is taken on record. While referring to the said reply, he alongwith the learned counsel for the complainant contend that the petitioner was a habitual offender with as many as 16 cases registered against him. Though, he had been acquitted in some cases, he was a convict in three cases and an under trial in the four cases. Therefore, the antecedents of the petitioner did not entitle him to the grant of bail. They, however, do not dispute the factual assertion made by the learned counsel for the petitioner that the petitioner was named only in the second disclosure statement of his co-accused, that the petitioner was in custody since 10.04.2023 and that none of the 42 prosecution witnesses had been examined so far.

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

6. Admittedly, the petitioner is not named in the FIR but in the second disclosure statement of his co-accused. The evidentiary value of the said statement shall be adjudicated upon during the course of Trial. The petitioner is stated to be in custody since 10.04.2023 but none of the 42 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, his further incarceration is not required even though he has criminal antecedents.

CRM-M-6505-2024 (O & M) ::4:-

7. Thus, without commenting on the merits of the case, the present petition is allowed. The petitioner-Sukhchain Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other case(s)/crime other than the cases referred to in the State reply dated 10.04.2024.
9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 15, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No