

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-7694-2024
Date of decision : 20.02.2024

Devender Petitioner
versus
State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Manish Soni, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.62 dated 02.03.2015, registered for the offences punishable under Sections 302, 120-B, 34 of IPC and Section 25 of Arms Act at Police Station Sohna, District Gurugram.
2. FIR was registered on the information supplied by one Pawan Kumar Garg, who alleged as under:-

“xx xx xx

Today on 01.03.2015 around 7:00 pm my brother was coming back home after work when he reached in front of house then suddenly unknown persons fired at my brother Sanjay Kumar Garg, due to shot my brother fell down in front of house. My cousin Shubham who was present at house, on hearing the sound of the shot saw from upstairs then my brother Sanjay Kumar was seen lying on the ground. That two persons were seen running. My cousin Shubham took his father Sanjay Kumar Garg to Vanhan Hospital Sohna for treatment

where the doctor has advised for getting the treatment from some bigger hospital. Thereafter, we got admitted other brother Sanjay Kumar Garg in Fortis Hospital Gurgaon where doctors declare him dead. That Rajender Jain Sohna, Ram Mehar and Satvir resident of Baluda have hand in the murder of my brother Sanjay Kumar Garg because from many days they are having grudge with our family and used to extend threats of life. Legal action be taken against aforesaid persons. I have given my statement which is correct.”

3. One of the suspected accused namely Surender @ Kalu @ Pahalwan is stated to have suffered a disclosure while in police custody alleging as under:-

“In the presence of the following witness, accused Surender alias Kalu alias Pahalwan abovesaid got recorded his disclosure statement in the police custody without any fear and pressure that on 15.03.2015, I got recorded my disclosure statement which was recorded due to the beatings, fear and pressure of the police and the real fact is that my maternal uncle (Mama) Ram Mehar son of Kaniram resident of village Baluda, District Gurugram has borrowed money and got executed agreement for 2 Kanal Land with Virender Kumar Garg son of Gian Chand resident of New Grain Market, Sohna. In the year 2005, compromise was affected between Ram Mehar son of Dhaniram resident of Baluda, District Gurugram and Virender Kumar Garg resident of Sohna and I was also present in the Panchayat. Even after the compromise, Sanjay Kumar Garg (deceased) brother of Virender Kumar Garg asked not to give the land and altercation was taken place between me and Sanjay Kumar Garg and I threatened to kill him. Ram Mehar son of Dhaniram resident of

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Baluda, Sohan got transferred 2 kanal land in the name of Satbir son of Sher Singh resident of Baluda and the same land was got transferred 2 Kanal land in the name of my friend's wife Roshni wife of Devender by Satbir and the filed Civil Suit for 5 Kanal 15 Marla land of my maternal uncle Ram Mehar by executing agreement in fraudulent manner, regarding which, many times Panchayat was convened. Deceased Sanjay Kumar Garg brother of Pawan Kumar Garg kept adamant not to transfer the land, due to which, I kept grudge because of our 2 Kanal land and around one month ago, we made planning at our Farm House at village Kapashera to kill Sanjay Kumar Garg and **Regarding this, information was given to my brother Devender, maternal uncle Ram Mehar and Satbir resident of Baluda and my brother Devender and maternal uncle Ram Mehar and Satbir also agreed for the same.** I called my one friend namely Surender alias Sunda s/o Bhagwana, resident of Dadri Toe, District Jhajjar and gave Rs.3 Lacs. On the same very day, we went to Sohna in the vehicle of Surender alias Sunda where Sanjay Kumar Garg was found at his Aara Machine at Sohna on the same day. On 01.03.2015, Surender alias Sunda s/o Bhagwana resident of Dadri Toe and his accomplices Meenu and Seenu, I do not know their proper addresses, killed Sanjay Kumar Garg by shooting him. Surender alias Sunda has kept grudge at his village, due to which, he does not visit at his village. Surender alias Sunda has many whereabouts at Gurugram, Kapashera, New Delhi and Bijwasan, which I know and can demarcate and can apprehend him alongwith the vehicle. The disclosure statement of the accused was recorded and the same was signed by the accused and the witnesses.”

4. It is this statement that the name of the petitioner figured. However, he could not be challaned in the police report as he is alleged to have absconded and was not arrested. The co-accused were put to trial and stand acquitted vide judgment dated 12.10.2017. The acquitted persons include Surender @ Kalu @ Pahalwan on whose disclosure the present petitioner was nominated. He was arrested on 26.09.2023 and was tried for offence punishable under Section 174-A of IPC, where he stands convicted and has been sentenced to fine of Rs.2,000/-. Since 26.09.2023, petitioner is behind bars. All the private witnesses stand examined and apart from the present FIR and the one under Section 174-A of IPC which is offshoot of the present FIR only, there is no other criminal antecedents of the petitioner.
5. Without further commenting on the merits of the case and keeping in view the aforesaid fact, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.
6. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

20.02.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No