

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-17288-2024 (O&M)

Date of decision: 25.04.2024

SUKHWANT SINGH

.....PETITIONER(s)

Versus

STATE OF HARYANA

.....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. P. S. Hundal, Senior Advocate with
Mr. Ankush Chauhan, Advocate;
Mr. Gursahib Singh Hundal, Advocate; and
Mr. Gurpreet Singh, Advocate,

Mr. Kiran Pal Singh, AAG, Haryana,
assisted by SI Vijay Kumar.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of Code of Criminal Procedure, 1973 for seeking bail pending trial in FIR No.86 dated 02.04.2022 registered under Sections 201, 302 & 120-B of the Indian Penal Code, 1860 (for short 'IPC') and Sections 25 and 27 of Arms Act, 1959, at Police Station, Kalayat, District Kaithal.

2. Status report dated 24.04.2024 by way of an affidavit of Shri Lalit Kumar, HPS, Deputy Superintendent of Police, Kalayat District Kaithal has been filed on behalf of respondent-State and the same is taken on record. Copy supplied to the other side. Registry to tag the affidavit at appropriate place.

3. It transpires that initially, above FIR was registered under section 346 IPC on the basis of statement dated 02.04.2022 made by informant-Monika Devi with the following allegations:-

“It is stated that my name is Monika Devi wife of Manoj s/o of Mohan Lal, caste Brahman, permanent resident of W.No. 09, Kalayat. My husband Manoj Kumar is running an office of Cable Dishes in Gaushala Market, Kalayat. He is not receiving my phone calls since 5.00 pm dated 01.04.2022. Manoj has not returned to home till today. We have searched at all the places, but could not trace him. Manoj is wearing T-Shirt of Sky colour and navy blue Jeans. He has also worn shoes. His height is 5 feet 7 inches, fair complexion and aged about 36 years. One Reeta (Sardar) was with Manoj on the last night. Reeta told that he has left Manoj at the Kainchi Crossing. It is, therefore, requested that matter be inquired into and information about the whereabouts of Manoj may be given to us.”

4. Police file reveals that during investigation, dead body of Manoj was recovered from Canal (Sirsa Branch) on 03.04.2022 and that led to addition of Sections 302/201/34 IPC as well as Sections 25/27 of Arms Act, 1959, and deletion of Section 346 IPC.

5. Learned Senior counsel contends that after arrest of petitioner, police is alleged to have recovered one country-made pistol, 28 live cartridges, 4 empties along with one magazine. Further contended that as per Recovery Memo., the words ‘*Smith & Wesson USA*’ were inscribed on the body of pistol. Still further contended that pistol and empty cartridges were sent to Forensic Science Laboratory (FSL), Madhuban, Karnal and as per FSL report, words ‘*Smith & Wesson USA*’ are not mentioned therein.

It is vehemently contended by learned Senior Counsel that as per Recovery Memo, one magazine was also recovered by the police, but it was not found in the parcel along with pistol marked as W/1.

Still further contended that there is an inherent flaw in the prosecution case in as much as the country-made pistol, which was allegedly sent to FSL had been changed by the police, just to falsely implicate the petitioner.

Lastly contended that it was a blind murder, but petitioner has been made as a scapegoat for the reasons best known to the police.

6. *Per contra*, learned State counsel while opposing the prayer submitted that as per FSL report dated 31.08.2022 (R-4), it is evident that two country made pistols were recovered during investigation i.e. one from petitioner and another from co-accused Sonu @ Raghuvir, which were marked as W/1 and W/2, respectively. He further submitted that as per expert opinion, bullet 7.65 mm. (Mark BC/1) was fired from country-made pistol (Mark W/1) and not from any other firearm.

7. Heard learned counsel for the parties and perused the paper book.

8. It is discernible that on 04.04.2022, one Som Nath joined investigation and got recorded his statement to the effect that about 4/5 years ago, some dispute arose between him (Som Nath), Manoj (since deceased) and petitioner (Sukhwant Singh @ Ritha). He further stated that on 01.04.2022, petitioner-Sukhwant Singh @ Ritha accompanied Manoj on his Scooty towards Kenchi Chowk and he was lastly seen in the company of petitioner on that day. Above Som Nath also stated that petitioner-Sukhwant Singh murdered Manoj, while hatching a criminal conspiracy with his co-accused-Sonu due to previous enmity.

9. It is not in dispute that after consideration of the report under Section 173 Cr.P.C., learned trial Court framed charges against the petitioner for commission of the offences punishable under Sections 120-B/302/201 IPC and Sections 25(1-B) of Arms Act, 1959, on 23.08.2022. As on today, out of total 32 prosecution witnesses, only 01 has been examined; thus trial is at the initial stage.

Apart that, it is the case of prosecution that pistol mark W/1 was recovered from the petitioner and as per FSL report, 7.65 mm bullets were fired from this pistol and not from any other firearms; because every firearms has got its own individual characteristic marks.

Further more, above Som Nath while appearing as PW1, during his examination-in-chief deposed inter alia as under :-

“Last time, I had seen Manoj with Sukhwant @ Ritha and Sonu. Sukhwant and Sonu had committed the murder of Manoj. I identify the accused Sukhwant and Raghuvir Singh @ Sonu present in the court through video-conferencing”

10. Moreover, the contentions so raised by learned Senior counsel are based on intricate factual position, which can only be examined by learned trial Court after leading evidence by both sides at an appropriate stage; hence, it would be preposterous for this Court to express any opinion either way, to that effect.

11. In view of the facts and circumstances discussed herein above, *prima facie* the allegations levelled against the petitioner are very serious in nature; hence, releasing him on bail is not warranted at this stage.

12. Consequently, there is no option, except to dismiss the petition.

13. Ordered accordingly.
14. The observations made above be not construed as an expression of opinion on merits of the case; rather confined only to decide the present petition.
15. Pending application(s), if any, shall also stands disposed of.

25.04.2024
SN/v

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>