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

CRM-M-19069-2023
Date of Decision: 11.01.2024

SANDEEP BOXER

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gopal Sharma, Advocate
for the petitioner.

Mr. Ravish Kaushik, Addl. A.G., Haryana.

Mr. Vikas Bishnoi, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

This 3rd petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.371 dated 05.08.2019 registered under Sections 302, 34 IPC, Section 25 of Arms Act and (Sections 201, 120-B IPC and 29 of Arms Act added later on) at Police Station City Tohana, District Fatehabad.

2. The present FIR came to be registered on the statement of Parvinder Singh son of Hawa Singh and the same reads as under:-

“The statement of Parvinder Singh son of Hawa Singh son of Badan Singh, resident of Kalwan aged 25 years, Mobile No. 870845808 that it is stated that I am resident of above mentioned address and doing BA from Open University, Delhi Today on 05.08.2019. I along with my brother

Gurdeep @Deepu son of Joginder Singh son of Bachan Singh, resident of Kalwan came to Tohana. I and my brother Gurdeep came at IG College Tohana to meet our friends from bus stand Tohana. I was standing with my friend and Gurdeep was talking with his friend in front of office of Principal. Meanwhile, three young boys came to College at about 11:00 am from behind. Within my site, out of them, two boys caught hold of Gurdeep from his arm and third boy came in front of Gurdeep and put his pistol on the chest of Gurdeep and fired from pistol which he was holding in his hand. Gurdeep fell down after hitting fire and blood started oozing. I shouted catch them catch them, all the three boys started running among the children. I tried to catch them along with my friends but all the three boys succeeded in running. Out of the three boys, I recognized two boys. The name of one boy is Rahul Boxer resident of Shergarh, District Kaithal and name of second boy is Sandeep Boxer son of Pala Ram resident of Dhamtan Sahib District Jind and about the third unknown boy whom I can recognize if he produced before me. After that, I along with my friends took my brother to the Govt Hospital Tohana in injured condition but during treatment doctor declared my brother dead. All the three boys, Rahul, Sandeep Boxer and one unknown boy have murdered my brother with fire shot. The motive for firing shot may be due to old dispute. Other boys may be involved in this incident. Legal action be taken against them. Now I got recorded my statement, heard it, which is correct Sd/ Parvinder Attested SHO/SI Sanjay Kumar PS City Tohana dated 05.08.2019.”

3. The FIR was initially registered against Rahul Boxer and Sandeep Boxer (petitioner) son of Pala Ram. The investigation began and a .32 cartridge was recovered from the spot.

On 06.08.2019, during the course of investigation, the complainant got recorded his supplementary statement under Section 161 Cr.P.C. wherein he stated that Sandeep Boxer (petitioner) had murdered his brother in furtherance of a criminal conspiracy hatched with his friends and from the CCTV footage of cameras installed near the college he had found that from the Ritz Car bearing No.HR 51AH 0765 two boys had alighted one of whom namely, Satnam who was holding a pistol and the other being Sandeep Boxer, the driver. One motorcycle make Bajaj Pulsar also came to the spot being driven by Jatin and Rahul Boxer was a pillion rider. Thereafter, Ritik alias Nitin also reached at the spot on a scooty. All the accused fled away after committing the murder of his (complainant's) brother Gurdeep.

On 12.08.2019, Satnam and Ritik alias Nitin were arrested. Satnam got recorded his disclosure statement on 15.08.2019 that he had thrown the weapon used in the occurrence into the Ganga Canal, Rorki, Uttarakhand and therefore, Section 201 IPC was added.

Co-accused Ritik alias Nitin got recovered his scooty bearing No.HR 23F 2404 used in the occurrence.

On 16.08.2019, the petitioner-Sandeep Boxer was arrested. He got recorded his disclosure statement on 18.08.2019 stating that the pistol used in the occurrence had been broken with an iron hammer, screw driver and thereafter, the broken pieces had been thrown into the Ganga Canal. On 19.08.2019, the petitioner got recovered the Ritz Car bearing No.HR 51AH 0765 used in the occurrence. From the dickey of the said car, an iron hammer, screw driver and the cover of a pistol were recovered. On 20.08.2019, the

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petitioner disclosed that the pistol, 2 magazines and 7 cartridges had been purchased from Sandeep Gujjar, resident of Saharanpur (U.P.)

On 20.08.2019, Sandeep Gujjar was arrested and got recovered Rs.7000/- i.e. the commission amount for the sale of the 32 bore pistol, magazines and cartridges. Section 29A Arms Act was added in the above-mentioned FIR.

On 22.11.2019, co-accused Rahul was arrested and was found to be a juvenile.

On 23.11.2019, the offence under Section 202 IPC was found to be committed by co-accused Rahul because after the commission of the offence, Rahul and Ritik alias Nitin fled away from the spot instead of giving information to the Police. Section 202 IPC was added in the above-mentioned. Offences punishable under Sections 302, 201, 120-B, 34 IPC and Sections 25, 29A of Arms Act were not found to have been committed by co-accused Rahul and Ritik alias Nitin and were accordingly deleted qua the said accused.

Meanwhile, on obtaining the record of the birth certificate of Rahul from the Government Hospital Kaithal which was found that he was born on 06.11.1999 and thus was a major on the date of the occurrence.

On 20.11.2019, the report under Section 173 Cr.P.C. was presented against Sandeep Boxer (petitioner), Ritik alias Nitin, Satnam and Sandeep Gujjar.

On 08.04.2020, the report under Section 173 Cr.P.C. was submitted for the offence under Section 202 IPC against Rahul and Ritik alias Nitin.

On 24.07.2021, Jatin was arrested and got recorded his disclosure statement to the effect that the mobile phone and SIM from which he had made a call to co-accused Rahul had been broken and thrown in the Canal Hisar Road, Tohana. Jatin got recovered the motorcycle bearing No.PB 13AN 5867 make Bajaj Pulsar.

On 04.10.2021, the report under Section 173 Cr.P.C. was presented against Jatin.

On 14.12.2022, the Trial Court framed charges for the offences under Sections 120-B read with 302 IPC against petitioner-Sandeep Boxer, Satnam, Rahul and Section 201 IPC and Section 25 of the Arms Act against Satnam and Section 29 of Arms Act against Sandeep Gujjar.

4. The learned counsel for the petitioner contends that the petitioner was a young boy and in custody since 15.08.2019. Though, the charges had been framed, no prosecution witness had been examined till date. Therefore, in view of the protracted Trial, the petitioner was entitled to the concession of bail in view of the right to a speedy Trial enshrined under Article 21 of the Constitution of India.

5. On the other hand, the learned State counsel and the counsel for the complainant while referring to the reply dated 25.07.2023 contend that the allegations against the petitioner and his co-accused were grave and serious. The petitioner was specifically named in the FIR. The deceased-Gurdeep had

been brutally murdered during the day in the college premises by the assailants using firearms. It was the petitioner who had purchased the weapon of offence from Sandeep Gujjar. The petitioner had also recovered a Ritz Car in which the assailants had come to the spot. From the dicky of the car, various instruments were recovered which had been used to destroy the weapon of offence. As per the allegations, the petitioner had held the deceased Gurdeep while co-accused Satnam had fired the fatal shot from close range. Therefore, the petitioner was not entitled to the concession of bail. Even otherwise, in the case of accused Satnam this Court had directed the Trial Court to conclude the Trial within a period of six months. They, therefore, contend that no case for the grant of bail was made out.

6. I have heard the learned counsel for both the parties at length.

7. As per the prosecution case, it was the petitioner who came to the spot along with Satnam in a Ritz Car. Satnam, co-accused fired the fatal shot while the petitioner held the deceased. During the course of investigation, it has been established that the petitioner had purchased the weapon from one Sandeep Gujjar and subsequently destroyed the same after it being used in the occurrence. Therefore, at this stage, by no stretch of imagination can it be stated that the petitioner has been falsely implicated in the present case. Further, in the case of co-accused Satnam, this Court has already passed an order directing the Trial Court to conclude the Trial within a period of six months. Therefore, the prayer of the petitioner that he be granted the concession of bail on account of protracted Trial cannot be accepted.

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8. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

9. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

11.01.2024

JITESH

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