

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28140-2023

Date of decision: 30.04.2024

Sombir

...Petitioner

Versus

The State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Abhimanyu Singh, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Gautam Dutta, Advocate for the complainant.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of regular bail in case having FIR No.383 dated 02.09.2022 registered under Sections 25(1-B)(a) of Arms Act and Section 120-B, 302 of IPC, (Sections 148, 149, 201 of IPC added later on) at Police Station Bilaspur, District Gurugram.

2. As per allegation in the FIR, complainant-Dinesh reported to the police that on 01.09.2022 at about 10 PM, he and his son Sumit were coming on different motor cycles, after providing food to the workers. Sumit was sitting on pillion seat of motor cycle driven by Mahesh son of Rishi, while complainant was riding a different motor cycle. When they reached near house of Gauri Shanker, 5/6 persons belonging to their village including Prahlad, Jogender, Harender, Mohit, Bittu, Amit and Bhupender came on their motor cycles and caused fatal fire arm injuries to Sumit and then they fled away from their. The petitioner was nominated as an accused on the basis of supplementary statement recorded by the complainant with the police. Even, accused

Jogender also named the present petitioner in his disclosure statement dated 24.09.2022. The petitioner was arrested on 23.01.2023.

3. Counsel for the petitioner submits that petitioner is falsely implicated in the present case and during investigation, nothing incriminating was recovered at his instance by the police. It is further submitted that the petitioner is in custody for the last more than 1 year and 3 months and is having no criminal history and during trial, complainant Dinesh Kumar while appearing in the witness box as PW-4, did not name the present petitioner in his testimony and further clarified that he never made any supplementary statement against the present petitioner. The copy of the said deposition is taken on record. The counsel for the petitioner further submits that in the given circumstances, as it will take time for trial to conclude, no purpose is going to be served by keeping the petitioner in custody for an indefinite period.

4. The present petition is resisted by the State counsel and the counsel appearing on behalf of complainant, both of whom have submitted that petitioner conspired with other accused to kill Sumit and he was having motive to do so. It is further submitted that petitioner is facing charges under Section 302 IPC being involved in murder of Sumit and that trial is going on. It is further submitted that at this stage, no ground is made out to grant concession of regular bail to the petitioner.

5. I have considered the submissions made by counsel for the parties.

6. It appears that petitioner was not named in the FIR and was arrayed as accused on the basis of supplementary statement of complainant Dinesh Kumar coupled with the disclosure statement suffered by co-accused Jogender. The petitioner was arrested in the present case on 23.01.2023. During investigation, no incriminating was recovered from his possession as has been admitted by the State

counsel. As per counsel for the complainant, petitioner is the main conspirator who hatched conspiracy with other accused to kill Sumit son of complainant. From the perusal of deposition of PW-4 Dinesh Kumar (complainant), it appears that he did not name the present petitioner as an assailant in his examination in chief. He deposed that Jogender, Harender, Prahlad, Jagbir, Bhupender, Amit, Mohit and Bittu were 7 persons who intercepted them at the time of occurrence. Admittedly, the petitioner is having no criminal history and is in custody for the last more than 1 year and 3 months and it will take time for the trial to conclude. The complicity, if any, of the petitioner in the present case will be determined at the time of final disposal of the trial. It being so, no purpose is going to be served by keeping the petitioner in custody for any longer period.

7. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

30.04.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No