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CRM-M-27765-2024
Decided on : 18.07.2024

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

Status report by way of an affidavit of Deputy Superintendent of Police, CAW, Panipat filed on behalf of respondent in Court today is taken on record subject to all just exceptions.

Main case

1. This is the second petition filed by the petitioner seeking concession of regular bail in case FIR No.595 dated 06.10.2022 under Sections 148, 149, 216, 302, 323, 452 and 506 IPC and Sections 25, 27 and 30 of the Arms Act registered at Police Station Tehsil Camp District Panipat.



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2. Learned counsel for the petitioner contends that a perusal of the FIR, which has been annexed as Annexure P-1, clearly reveals the absence of any specific allegation against the petitioner. Furthermore, when the most material witness, who is the complainant, brother of the deceased and an alleged eyewitness, stepped into the witness box to testify, he did not by way of even a whisper level any allegation against the petitioner. In support of his submissions, learned counsel has drawn the attention of this Court to the FIR in question as well as testimony of the complainant, which has been annexed as Annexure P-2. It has been asserted by the learned counsel that it is clear from a perusal of the testimony that no role has been assigned to the petitioner in the alleged murder much less any attribution of injury, fatal or otherwise, has been levelled against the petitioner.

3. Additionally, learned counsel for the petitioner has submitted that the petitioner has been in custody since 12.10.2022, and there are still 38 prosecution witnesses, who remain to be examined. Given these circumstances, further incarceration of the petitioner would not serve any useful purpose. Therefore, a prayer has been made to extend the concession of bail to the petitioner.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner has not controverted the fact that despite the case being based on eyewitness testimony and the



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complainant being an eyewitness, no specific allegations have been levelled against the petitioner either in the FIR or during his deposition by the complainant. Learned State counsel has, however, argued that the petitioner was present at the scene of the crime along with the co-accused.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. Before proceeding further, it would be apposite to reproduce the contents of the FIR in question, which are as under:

*“To the Station House Officer P.S. Tehsil Camp.
I, Jogender son of Sukhbir is a resident of Deshraj Colony, Panipat and we are having buffalo dairy in Desraj Colony, Panipat. About one year ago, an altercation took place between us and Parveen son of Sunil and due to old enmity, Parveen son of Sunil, Chintu son of Sunil and Sunil, Rakesh son of Baru and Mintu son of Baru, Sadhu son of Maha Singh, Bholu son of Maha Singh, Sonu son of Bhup Singh and Tinku son of Bhup Singh, Sandeep son of Pooran and 4-5 other persons, on 06.10.2022 at around 12:15 AM, raised quarrel with my father, who was sleeping in his room, about which, I, Bijender, Monu Pandit and my brother Dinesh along with my father came in the house of Parveen @ Baru resident of Deshraj Colony for making complaint about the same, but when we reached in the street, then, Praveen, Sadhu and Sandeep and ladies of their family started pelting bricks from their roofs on us and when we were coming back after defending ourselves, then, Praveen*



@ Baru fired on our side from his gun (Doga) and Sadhu son of Maha Singh fired several gun shots from his country made pistol, out of which, one fire hit on the chest and shoulders of my brother Dinesh. We took him in Government Hospital, where the doctors declared my brother Dinesh as dead. My brother died due to the gunshot fired by Praveen @ Baru and the bricks pelted by Sunil, Chintu, Rakesh, Mintu, Sadhu, Bolu, Sonu, Tinku, Sandeep and their companions. Legal action may kindly be taken against the culprits.”

7. A perusal of the FIR in question indeed reveals that no specific role or injury has been attributed to the petitioner in the crime in question. The fatal injury was caused on the deceased by the petitioner's nephew namely Praveen @ Baru, who fired a pistol at the deceased. The key witness, the complainant, who is also alleged to have witnessed the crime in question, has already testified before the trial Court. Therefore, there can be no apprehension of the petitioner tampering with evidence or intimidating the witnesses. It has also not been disputed by the State counsel that the petitioner is not involved in any other criminal case.

8. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of regular bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.



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9. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

18.07.2024
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(MANJARI NEHRU KAUL)
JUDGE

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