



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

CRM-M-29761-2024

Date of Decision: June 12, 2024

Swaraj

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Shivansh Malik, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of present petition filed under Section 438 Cr.P.C., petitioner prays for grant of anticipatory bail in case FIR No.201 dated 16.06.2020, under Sections 148, 149, 302, 506, 285 of IPC, Section 25 (Act No.54 of 1959), Arms Act, registered at Police Station Sadar, Rohtak, District Rohtak.

2. Learned counsel for the petitioner has drawn attention towards the contents of the FIR (Annexure P-1), lodged on the statement of complainant Kuldeep @ Nanha, the brother of deceased Bhoop @ Bhula, as per which on 16.06.2020 at about 5.45 p.m., when he alongwith deceased and his bhabhi were coming on a bicycle, they were waylaid by Pardeep, Vikram, Meena and Mukesh, who fired upon Bhoop @ Bhula, killing him on the spot. It is specifically pointed out that petitioner is not named in the FIR, but learned Addl. Sessions Judge, Rohtak in the order dated 27.05.2024 (Annexure P-14), observed that petitioner was named as one of the assailants. Learned counsel further has drawn attention towards the supplementary statement made by the complainant on 28.06.2020, i.e. 12

days after the occurrence (copy Annexure P-4), in which for the first time he named petitioner – Swaraj, to be one of the conspirators in the crime and also named Rinku, Hardeep, Ankit and Sandeep to be assailants. After investigation, police challaned said Rinku, Hardeep, Ankit and Sandeep, to face trial and rest of the persons as named in the FIR and also the petitioner were declared innocent. Learned counsel also contends that during investigation, weapons of crime were recovered from Hardeep and Ankit and the bullets retrieved from the body of the deceased matched with those weapons. Later on, during trial, the complainant as well as his sister-in-law, i.e. wife of deceased supported the initial version and nominated the petitioner and four others to be the assailants. Based upon that statement, petitioner has been summoned under Section 319 Cr.P.C. vide order dated 27.05.2024 and petitioner is now facing apprehension of his arrest.

3. Notice of motion.

4. Mr. Parveen Kumar Aggarwal, DAG, Haryana accepts notice on behalf of respondent-State.

5. Learned State counsel submits that since the petitioner has been summoned under Section 319 Cr.P.C., so complainant should also be impleaded as a party to this petition.

6. I do not find any force in the aforesaid contention of learned State counsel so as to implead the complainant as a party as the Court on the basis of statements of the witnesses has summoned the petitioner under Section 319 Cr.P.C. and this petition is only for seeking anticipatory bail not for challenging the order under Section 319 Cr.P.C.

7. It has been conceded by learned State counsel that petitioner is not named in the FIR to be amongst the assailants and that he has been named for the first time in supplementary statement of the complainant on 28.06.2020.

8. Having considered submissions of both the sides, I allow this petition. It is directed that on surrender of the petitioner before the Trial Court on or before 03.07.2024, the date stated to be fixed thereat, he shall be admitted to bail on the usual terms and conditions. If in the meantime, he is sought to be arrested, he shall be admitted to interim bail to the satisfaction of Arresting Officer.

June 12, 2024
sarita

(DEEPAK GUPTA)
JUDGE

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